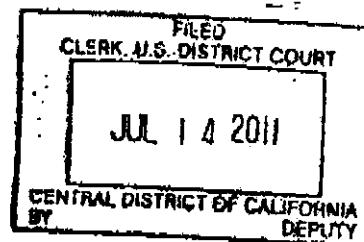


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7 Attorneys for Defendant
 Pfizer Inc.

9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA

LACV11-5801GW(E)
 CASE NO.

**NOTICE OF REMOVAL BY
 DEFENDANT PFIZER INC.**

11 STEVEN HEDLIN, GINA
 12 MCKLUSKY, JOHN CHRISTOPHER
 SMITH, MICHAEL NEWTON,
 13 VICKY SNYDER, ALAN TERRIO,
 JENNIE TERRIO, HEATHER
 14 YOUNG, JERRY HANSON,
 CHARLES DOMAN TH, MALISSA
 15 BRYANT, KATHY BURNETT,
 DIXIE CARVALHO, NANCY
 16 DUCOTE, ROBERT EGUINA, JOHN
 WHITE, DEBRA FLETCHER,
 17 CHARLA FERRELL, ABBY
 CHARLAND, JOHN BARTLEY,
 18 TAMICA ROBINSON, REBECCA
 LEE, SHELLIE JONES, WILLIAM
 19 HINCKLEY, ANN GORDON,
 THERESA LERCH, SHERRYLYNN
 20 COUCH and HENRY COUCH JR.,
 CHANTAE WILLIAMS, BARRY
 21 BRANDKAMP, JOHN AUSTIN, JR.,
 STEPHAN COOPER, LISA ROOKS,
 22 MARILYN LOCKRIDGE, JAMES
 LOWE, MICHELLE RABER, JUDITH
 23 LITTLE, FERRAH SZYMANSKI,
 JEFFREY HILL, DAVID JOHNSON,
 24 AMY HENDERSON, DEBORAH
 WELTHER, SANDRA SMITH,
 25 MICHELLE DELUCIA, CASANDRA
 BOIRE, ERNESTINE DAVIS, SCOTT
 26 CASSADY, RALPH CONDON,
 ELIZABETH JAUSEL, SYBRENA
 27 MALSOM, ARLENE KORDICK,
 KATHY S. DAVIS, DAVID A.
 28 DUBREY, WALTER EMMERSON,

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7 Attorneys for Defendant
Pfizer Inc.
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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

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28 DUBREY, WALTER EMMERSON,

CASE NO.

**NOTICE OF REMOVAL BY
DEFENDANT PFIZER INC.**

1 LEVI MCCAIN, BOBBY J.
 2 HOLLOWELL, MICHAEL HOOD and
 3 LAURA HOOD, KANDIEANN D.
 4 KLINEDINST, WILBERT LANO JR.,
 5 LINDA S. UBBELT and MICHAEL B.
 6 LIEBELT, CAMRIN J. MCDONALD,
 7 JIMMY W. MOFFETT, KENNETH
 8 NAPIER, AUBREY OXENDINE,
 9 CHARLOTTE PARKER, SANDY
 10 M. PRINCE, RENEE SINGLETON,
 11 KAY P. SLOCUM, VICTORIA
 12 SMALL WOOD, NANCY T.
 13 SOUTHERLIN, ROBYN K.
 14 SWEITZER, JESSICA TAISTO,
 15 KAREN J. WALKER, MICHAEL G.
 16 WEYRAUCH, MICHAEL
 17 WHEALEY, SHELIA WHITE,
 18 ANDRE YOUNG, DEREK
 19 CHARPENTIER, individually, and as
 20 surviving son of Jessica Charpentier,
 21 deceased, SHELBY GIESE is the
 22 personal representative of the estate of
 23 Laura Giese, deceased, LEROY
 24 DEGNER, individually, and as
 25 surviving spouse of Marie Degner,
 26 deceased, SALLY PORTER is the
 27 surviving mother of Dennis Jensen,
 28 deceased, PATRICIA HAINES-
 GENIESSE, individually, and as
 surviving spouse of Robert Geniesse,
 deceased, SHEEN A ALLEN,
 individually, and as the surviving
 spouse of Lew Allen, deceased,
 CASEY WHITTINGTON,
 individually, and as the surviving
 daughter of Robert Warring, deceased,
 SUSAN CAFRO, individually, and as
 the mother of Daniel Albrizio,
 deceased, VIRGINIA TICE,
 individually, and as the surviving
 spouse of Dustin Tice, deceased, RUTH
 JOHNSON, individually, and as
 surviving spouse of Carl Johnson,
 deceased, CATHERINE BENNETT,
 individually, and as surviving spouse of
 Joseph E. Bennett, deceased, ERIC
 HOWARD, individually, and as
 surviving spouse of Stormie Howard,
 deceased, EARNESTINE COLBURN,
 individually, and as surviving spouse of
 James Colburn, LORENE COLLIER,
 individually, and as surviving spouse of
 Freddie Collier, MARTHA WAGES,
 individually, and as surviving spouse of
 James Wages II, deceased, JEAN

CARROLL, individually, and as
surviving spouse of Dennis Shoemaker,
deceased,

Plaintiffs,

v.

PFIZER INC., a corporation;
MCKESSON CORP., a corporation;
DOES 1-50,

Defendants.

TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO ALL
PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendant PFIZER INC. ("Pfizer"), by its
undersigned attorneys, hereby removes the above-entitled state court action, Case
No. BC464579, from the Superior Court of the State of California, County of Los
Angeles to the United States District Court for the Central District of California on
the basis of diversity jurisdiction. In support of this Notice of Removal, Pfizer
states as follows:

I. THE STATE COURT ACTION

The removed action was filed on or about July 1, 2011 in the Superior Court
of the State of California in the County of Los Angeles, entitled *Steven Hedlin, et
al. v. Pfizer Inc., et al.* and assigned Case No. BC464579. The allegations in the
complaint relate to the prescription medication Chantix. The Complaint asserts
causes of action for negligence, strict products liability (design defect), strict
product liability (failure to warn), breach of express warranty, breach of implied
warranty, fraudulent misrepresentation and concealment, negligent
misrepresentation and concealment, gross negligence, unjust enrichment, punitive
damages, violation of California's Consumers' Legal Remedies Act, loss of
consortium, and wrongful death. As required by 28 U.S.C. § 1446(a), attached are

////

1 copies of all state court process, pleadings and orders served upon Pfizer in the
2 removed case. (See Exhibit A.)

3 **II. THE MULTI-DISTRICT LITIGATION PROCEEDING**

4 Numerous product liability actions alleging personal injuries from Chantix
5 have been brought in federal courts across the country. On October 1, 2009, the
6 Judicial Panel on Multidistrict Litigation ("JPML") established MDL No. 2092, *In*
7 *Re: Chantix (Varenicline) Products Liability Litigation*, in the Northern District of
8 Alabama to coordinate all federal products liability litigation involving Chantix.
9 Judge Inge Johnson was assigned to preside over the MDL. Pfizer intends to
10 identify this action as a "tag-along" to the Chantix MDL proceeding.

11 **III. BASIS FOR REMOVAL – DIVERSITY JURISDICTION**

12 This case is properly removed under 28 U.S.C. § 1441 because it is a civil
13 action that falls within the Court's original jurisdiction under 28 U.S.C. § 1332
14 (diversity of citizenship). The matter in controversy exceeds the sum of \$75,000,
15 exclusive of interest and costs, and complete diversity exists between the properly
16 considered plaintiffs and defendants.

17 **IV. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE**
18 **SATISFIED**

19 Plaintiffs commenced this action on July 1, 2011 and have not yet served
20 process on Pfizer. This Notice of Removal is therefore timely filed within 30 days
21 of service of the initial pleading. 28 U.S.C. § 1446(b).

22 Consent to removal by Defendant McKesson Corporation ("McKesson") is
23 not required both because McKesson has not been served and because McKesson
24 has been fraudulently joined. *See Emrich v. Touche Ross & Co.*, 846 F.2d 1190,
25 1193 n.1 (9th Cir. 1988).

26 Venue is proper in this Court because the United States District Court for the
27 Central District of California embraces the county in which the state court action is
28 now pending. *See* 28 U.S.C. §§ 84(c)(1), 1441(a).

Pursuant to 28 U.S.C. § 1446(d), Pfizer has filed this Notice of Removal concurrently with the state court in which the action is currently pending. In addition, a Notice of Filing Notice of Removal has been served on Plaintiffs' counsel.¹ Attached is a copy of the Notice of Filing of Notice of Removal and proof of service on Plaintiff of same. (See Exhibit B.)

V. THE AMOUNT-IN-CONTROVERSY REQUIREMENT IS SATISFIED

The amount in controversy for this matter exceeds \$75,000, exclusive of interest and costs. See 28 U.S.C. § 1332. Where, as here, a complaint does not specify the amount of damages being sought, the defendant bears the burden of demonstrating that the amount in controversy requirement is satisfied. *Kenneth Rothschild Trust v. Morgan Stanley Dean Witter*, 199 F. Supp. 2d 993, 1001 (C.D. Cal. 2002) (citing *Singer v. State Farm Mut. Auto. Ins. Co.*, 116 F. 3d 373, 376 (9th Cir. 1997), and *Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th Cir. 1992)). That burden is "easily met" if "it is facially apparent from the allegations in the complaint that plaintiff's claims exceed \$75,000." *Id.*

The Complaint alleges that the use of Chantix caused 92 Plaintiffs to sustain "severe and permanent physical injuries and/or death, severe emotional distress, economic losses and other damages." Compl. ¶¶ 303, 316, 325, 340, 374. Plaintiffs seek to recover compensatory damages, including loss of earnings, impaired earning capacity, past and future medical expenses, and damages for mental and emotional distress; punitive damages; and restitution. *See id.* at 67-68. Based on a fair reading of the severity of injuries alleged and substantial and wide-ranging damages sought, it is facially apparent that the Complaint seeks damages in

¹ Nothing in this Notice of Removal or related documents shall be interpreted as a waiver or relinquishment of Pfizer's right to assert any defense or affirmative matter in this proceeding. If any question arises as to the propriety of this removal, Pfizer requests the opportunity to conduct discovery or brief any disputed issues and to present oral argument in support of their position that this case is properly removable. *See Ritchey v. Upjohn Drug Co.*, 139 F.3d 1313, 1318 (9th Cir. 1998) (stating that "[w]here fraudulent joinder is an issue," courts "will go somewhat further" than the allegations of a complaint, since "[t]he defendant seeking removal to the federal court is entitled to present the facts showing the joinder to be fraudulent").

1 excess of \$75,000, thereby satisfying the amount-in-controversy requirement for
2 diversity jurisdiction.

3 **VI. COMPLETE DIVERSITY EXISTS BETWEEN PROPERLY**
4 **CONSIDERED PARTIES**

5 Defendant Pfizer is, and at the time of the filing of this action was, a
6 Delaware corporation existing under the laws of the State of Delaware, having its
7 principal place of business in the State of New York. *See* Compl. ¶ 85. Defendant
8 Pfizer is therefore a citizen of Delaware and of New York for purposes of federal
9 diversity jurisdiction.

10 Defendant McKesson is, and at the time of the filing of this action was, a
11 Delaware corporation with its principal place of business in the State of California.
12 *See id.* ¶ 93. McKesson is therefore a citizen of Delaware and California for
13 purposes of federal diversity jurisdiction. As described below, however, the
14 citizenship of McKesson should be disregarded for two separate and independent
15 reasons: it is fraudulently joined, and it is not a necessary and indispensable party.

16 The Complaint names 92 plaintiffs residing in the following 35 states: Texas,
17 Ohio, Pennsylvania, Michigan, Florida, Colorado, California, Minnesota,
18 Oklahoma, Tennessee, Washington, Kentucky, Illinois, Arizona, New York,
19 Oregon, North Carolina, Mississippi, Louisiana, Maryland, Nevada, Utah, New
20 Jersey, Alabama, Rhode Island, Wisconsin, Georgia, Missouri, Maine, Kansas,
21 Iowa, Massachusetts, Virginia, South Carolina, and New Mexico. *See* Compl. ¶¶ 1-
22 92. The citizenship of each plaintiff is alleged to be his or her state of residence.
23 As described below, however, the citizenships of plaintiffs Derek Charpentier,
24 Ralph Condon, David A. Dubrey, and Renee Singleton (all of New York), as well
25 as any other diversity-destroying plaintiffs, should be disregarded because those
26 plaintiffs are procedurally misjoined. The claims of those plaintiffs should be
27 severed pursuant to Federal Rule of Civil Procedure 21. Upon severance of those

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1 non-diverse plaintiffs' claims, complete diversity exists between Pfizer and
2 Plaintiffs.

3 **VII. MCKESSON'S CITIZENSHIP SHOULD BE DISREGARDED IN**
4 **ASSESSING COMPLETE DIVERSITY**

5 For two separate and independent reasons, McKesson's citizenship should be
6 disregarded in assessing whether complete diversity exists.

7 **A. McKesson is Fraudulently Joined**

8 "[O]ne exception to the requirement of complete diversity is where a non-
9 diverse defendant has been "fraudulently joined." *Morris v. Princess Cruises, Inc.*,
10 236 F. 3d 1061, 1067 (9th Cir. 2001); *see also Triggs v. John Crump Toyota, Inc.*,
11 154 F. 3d 1284, 1287 (11th Cir. 1998) ("Fraudulent joinder is a judicially created
12 doctrine that provides an exception to the requirement of complete diversity.")
13 Joinder is fraudulent "[i]f the plaintiff fails to state a cause of action against a
14 resident defendant, and the failure is obvious according to the settled rules of the
15 state." *Morris*, 236 F.3d at 1067.

16 Here, McKesson is fraudulently joined. Nearly every allegation in the
17 Complaint is directed at Pfizer and describes alleged wrongdoings by Pfizer. Pfizer
18 is alleged, for example, to have failed to adequately study Chantix to determine the
19 risk of serious injury and/or death associated with its use by, among other failures,
20 "[i]ntentionally excluding certain patients and populations from clinical trials" and
21 "[i]ntentionally ignoring any proper evaluation of depression, aggression, suicide,
22 suicidal ideation, suicidal thoughts, suicidal tendencies, and other injuries...like
23 diabetes[.]" Compl. ¶ 214(a), (b). The Complaint also alleges that Pfizer made
24 "repeated denials of a relationship between neuropsychiatric side effects including
25 behavior changes and Chantix use," *id.* ¶ 234, and "has repeatedly denied the
26 mounting scientific evidence linking Chantix to serious injury and death," *id.* ¶ 239.

27 According to the Complaint, moreover, Pfizer allegedly "sponsored
28 continuing medical education courses for doctors that showcase Chantix as a safe

1 and effective smoking cessation, but...downplay or omit information about the
 2 serious adverse events of Chantix and about the types of people excluded from the
 3 clinical trials.” Compl. ¶ 206. Pfizer also allegedly “sponsored free smoking
 4 cessation presentations for consumers that also downplayed or omitted information
 5 about the serious adverse events of Chantix.” *Id.* ¶ 207.

6 The Complaint also alleges that “prior to November 20, 2007, the Chantix
 7 label did not adequately disclose its link with neuropsychiatric adverse effects,”
 8 Compl. ¶ 254, and that even after FDA regulations were promulgated precisely to
 9 allow Pfizer to strengthen warning labels without regular pre-approval, Pfizer “did
 10 not change the Chantix label until November 2007,” *Id.* ¶ 255. The Complaint
 11 alleges that when Pfizer changed the Chantix label in November 2007, the “label
 12 change did not adequately warn about the neuropsychiatric and other serious side
 13 effects alleged herein, and [Pfizer] consistently minimized and diluted Chantix’s
 14 association with these side effects.” *Id.* ¶ 256. Similarly, the Complaint alleges
 15 that when Pfizer changed the Chantix label again in January 2008, “this label
 16 change remained inadequate and [Pfizer] should have made it much sooner.” *Id.*
 17 ¶ 261. The Complaint makes similar allegations with regard to the label change
 18 Pfizer made in May 2008. *See id.* ¶ 273. In addition, Pfizer allegedly “embark[ed]
 19 on a massive and deceptive publicity campaign to downplay the connection
 20 between Chantix and neuropsychiatric and other adverse events...to insist that
 21 Chantix was properly labeled and safe for use.” *Id.* ¶ 244.

22 McKesson, by contrast, is hardly mentioned in the Complaint. Indeed, aside
 23 from the parties and jurisdiction sections, the Complaint does not *once* mention
 24 McKesson. *See* Compl. ¶¶ 104-459. The only facts the Complaint does allege as to
 25 McKesson concern its general presence and business activity in California, so as to
 26 establish personal jurisdiction, *see id.* ¶¶ 95, 96, 102, 103, and generalized,
 27 boilerplate allegations McKesson distributed, sold, or warranted Chantix in the

28 ////

1 State of California and County of Los Angeles, *see id.* ¶¶ 96, 103. Indeed,
 2 McKesson is mentioned in only four of the 459 paragraphs in the complaint.

3 Plaintiffs' allegations against McKesson do not support the contention that
 4 McKesson violated the law in any way, much less that it was negligent, is strictly
 5 liable, breached warranties, or negligently misrepresented anything with respect to
 6 Chantix, as the Complaint contends. Plaintiffs attribute no specific wrongful act to
 7 McKesson. As this Court recently noted, "While Plaintiffs are in no way required
 8 to prove their case, by the same token they cannot avoid a finding of fraudulent
 9 joinder by asserting a mere hypothetical possibility of a cause of action against the
 10 resident defendant." *Higley v. Cessna Aircraft Co.*, 2010 WL 3184516, at *2 (C.D.
 11 Cal. July 21, 2010) (internal quotation marks and brackets omitted); *see also TPS*
 12 *Utilicom Servs., Inc. v. AT&T Corp.*, 223 F. Supp. 2d 1089, 1103 (C.D. Cal. 2002);
 13 *Mannheim v. UnumProvident Corp.*, 2002 WL 1397142, at *2-5 (C.D. Cal. Feb. 7,
 14 2002); *Charlin v. Allstate Ins. Co.*, 19 F. Supp. 2d 1137, 1140-42 (C.D. Cal. 1998).
 15 That is what has occurred here. Defendant McKesson therefore is fraudulently
 16 joined and its citizenship must be disregarded for purposes of diversity jurisdiction.

17 **B. McKesson is Not a Necessary and Indispensable Party**

18 Alternatively, even if the Court determines that McKesson is not fraudulently
 19 joined, the Court should sever and remand Plaintiffs' claims against McKesson
 20 pursuant to Federal Rule of Civil Procedure 21 because McKesson is not a
 21 necessary and indispensable party under Federal Rule of Civil Procedure 19. Under
 22 Rule 21, district courts may sever and remand claims against unnecessary
 23 defendants to perfect diversity jurisdiction. *See Newman-Green, Inc. v. Alfonzo-*
 24 *Larrain*, 490 U.S. 826, 832 (1989) (stating "it is well-settled that Rule 21 invests
 25 district courts with authority to allow a dispensable party to be dropped at any
 26 time"). The Ninth Circuit has stated that Rule 21 "is viewed as a grant of
 27 discretionary power to the federal court to perfect its diversity jurisdiction by
 28 dropping a nondiverse party provided the nondiverse party is not indispensable to

1 the action under Rule 19.” *Kirkland v. Legion Ins. Co.*, 343 F.3d 1135, 1142 (9th
 2 Cir. 2003) (internal quotation marks and brackets omitted); *Koehler v. Dodwell*,
 3 152 F.3d 304, 308 (4th Cir. 1998) (“[A] party or claim whose presence deprives the
 4 court of jurisdiction may be dropped or severed from the action.” (citing Fed. R.
 5 Civ. P. 21)). Courts may sever claims against even a properly joined party, so long
 6 as that party is not necessary and indispensable within the meaning of Rule 19. *See*
 7 4 Moore’s Federal Practice § 21.05, at 21-20 to -21. (“[C]ourts agree that the Rule
 8 may apply even in the absence of misjoinder or nonjoinder.”).

9 McKesson is not a necessary and indispensable party to this litigation. It is
 10 barely the subject of any allegations in the Complaint, and none of the allegations
 11 relating to McKesson concerns any wrongdoing with respect to Chantix. Plaintiff
 12 does not allege that McKesson and Pfizer acted in concert; and even if Pfizer and
 13 McKesson could be held jointly liable for some of Plaintiffs’ alleged injuries, that
 14 does not make McKesson a necessary and indispensable party, since “[i]t has long
 15 been the rule that it is not necessary for all joint tortfeasors to be named as
 16 defendants in a single lawsuit.” *Temple v. Synthes Corp., Ltd.*, 498 U.S. 5, 7 (1990)
 17 (per curiam) (holding that alleged joint tortfeasor physician was not a necessary and
 18 indispensable party to products liability action against medical device
 19 manufacturer).

20 The severance and remand to state court of Plaintiffs’ claims against
 21 McKesson will advance the convenience and efficiency of this litigation with little
 22 to no prejudice to Plaintiffs. Severance and remand of the McKesson claims will
 23 allow the Judicial Panel on Multidistrict Litigation to transfer the claims against
 24 Pfizer that remain in federal court to the Chantix MDL. The Chantix MDL was
 25 expressly established to coordinate claims regarding “Pfizer’s design, testing,
 26 manufacture, and marketing of Chantix.” *In Re: Chantix (Varenicline) Prods. Liab.*
 27 *Litig.*, 655 F. Supp. 2d 1346, 1346 (J.P.M.L. 2009). The JPML determined that
 28 centralization and coordination of the Chantix product liability claims will “serve

1 the convenience of the parties and witnesses and promote the just and efficient
2 conduct of the litigation,” and will “eliminate duplicative discovery, prevent
3 inconsistent pretrial rulings on discovery and other issues, and conserve the
4 resources of the parties, their counsel and the judiciary.” 655 F. Supp. 2d at 1346.
5 To date, the Chantix MDL contains numerous cases alleging claims nearly identical
6 to those asserted against Pfizer in the Complaint here. (Indeed, the Complaint is
7 largely a carbon-copy of the complaints used by other Chantix MDL plaintiffs.)

8 Severance and remand of the claims against McKesson, and subsequent
9 transfer of the claims against Pfizer to the MDL, will help minimize Plaintiffs’
10 costs and expenses. Plaintiffs will not bear the burden of engaging on their own,
11 and at their sole expense, in discovery against Pfizer, as would occur if the case
12 were to proceed in state court. Pharmaceutical product liability actions involve
13 complicated discovery issues, with millions of highly technical documents,
14 voluminous electronic databases, numerous depositions, and sophisticated expert
15 opinions. Pursuing their claims in the MDL will allow Plaintiffs to access the
16 discovery already underway at minimal cost, and they will be able to take
17 advantage of work already being performed by the Plaintiffs’ Steering Committee
18 appointed by Judge Johnson.

19 Without the ability to transfer the claims against Pfizer to the MDL, however,
20 the “convenience of the parties and witnesses” and the “just and efficient conduct of
21 the litigation” are undermined, and the purposes of the MDL to “eliminate
22 duplicative discovery, prevent inconsistent pretrial rulings on discovery and other
23 issues, and conserve the resources of the parties, their counsel and the judiciary” are
24 plainly frustrated. That outcome is not justified simply because of the addition of a
25 few scant, generic allegations against an unnecessary and dispensable defendant.
26 Accordingly, should the court not find McKesson fraudulently joined, it should
27 exercise its discretion to perfect its diversity jurisdiction by severing and remanding

28 /////

1 to state court the claims alleged against McKesson, permitting transfer of the action
2 to the Chantix MDL.

3 **VIII. THE NON-DIVERSE PLAINTIFFS' CITIZENSHIP SHOULD BE**
4 **DISREGARDED IN ASSESSING COMPLETE DIVERSITY**
5 **BECAUSE THEY ARE PROCEDURALLY MISJOINED**

6 Even after McKesson's citizenship is disregarded for the reasons stated
7 above, complete diversity must exist between Pfizer and Plaintiffs in order for this
8 Court to exercise diversity jurisdiction. Four plaintiffs share citizenship with
9 Pfizer: Derek Charpentier, Ralph Condon, David A. Dubrey, and Renee Singleton
10 (the "New York Plaintiffs"). These non-diverse plaintiffs, however, are
11 procedurally misjoined, and their citizenship should be disregarded when
12 evaluating diversity jurisdiction.

13 Under the doctrine of procedural misjoinder, "a court may disregard the
14 citizenship of certain parties, on either side of the adversarial divide, whose claims
15 lack a common transaction and legal or factual identity." *Burns v. Western S. Life*
16 *Ins. Co.*, 298 F. Supp. 2d 401, 403 (S.D. W. Va. 2004). To determine whether
17 claims are procedurally misjoined, a court looks to permissive joinder rules.
18 Plaintiffs may be joined in a single action only when their claims arise out of the
19 "same transaction, occurrence, or series of transactions or occurrences" and where
20 any "question of law or fact common to all defendants will arise in the action."
21 Fed. R. Civ. P. 20(a).² "Both of these requirements must be satisfied in order to
22 sustain party joinder." 7 Charles A. Wright et al., *Federal Practice and Procedure*
23 § 1653 (3d ed. 1998). If a court finds that a non-diverse plaintiff does not satisfy
24 these requirements, the plaintiff is deemed procedurally misjoined, and the
25 appropriate course of action is to sever and remand the claims of that plaintiff "for
26 purposes of maintaining the defendants' right to removal of the remainder of the

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² In addressing procedural misjoinder, some district courts look to state, rather than federal, rules of permissive joinder; however, because California and federal permissive joinder rules are "virtually identical," *Sutton v. Davol, Inc.*, 251 F.R.D. 500, 504 (E.D. Cal. 2008), the court need not dwell on that issue.

1 action.” *In re Rezulin Prods. Liab. Litig.*, 168 F. Supp. 2d 136, 148 (S.D.N.Y.
2 2001).

3 The New York Plaintiffs do not satisfy the requirements of permissive
4 joinder. As to those plaintiffs, the Complaint alleges only that they suffered various
5 injuries allegedly due to their use of Chantix. Compl. ¶¶ 10, 73. But
6 pharmaceutical liability cases around the country have held that allegations of “a
7 similar injury allegedly caused by the same drug” are “insufficient for Rule 20
8 joinder purposes.” *McNaughton v. Merck & Co.*, 2004 WL 5180726, at *2
9 (S.D.N.Y. Dec. 17, 2004). *See, e.g., Greene v. Wyeth*, 344 F. Supp. 2d 674, 684 (D.
10 Nev. 2004) (“[T]he ingestion of medication among various Plaintiffs alone cannot
11 constitute the ‘same transaction or occurrence.’”); *In re Rezulin*, 168 F. Supp. 2d at
12 146 (rejecting joinder where plaintiffs “do not allege that they received [the
13 medication] from the same sources or . . . were exposed to [it] for similar periods of
14 time”).³ Indeed, in another case from this same Chantix litigation, the district court
15 held that “the mere fact [that] four plaintiffs took Chantix at some point in time and
16 suffered some sort of mental or behavioral side-effect” was “not enough of a logical
17 or factual connection to satisfy the same transaction or occurrence requirement.”
18 *Boschert v. Pfizer, Inc.*, 2009 WL 1383183, at *3 (E.D. Mo. May 14, 2009).
19 Accordingly, the mere allegation that the New York Plaintiffs suffered injuries
20 purportedly as a result of consuming Chantix is insufficient to permit his joinder to
21 this case.⁴

22 ³ *Accord Warner v. Stryker Corp.*, 2009 WL 1773170, at *1-2 (D. Or. June 22, 2009); *In re Diet Drugs Prods. Liab.*
23 *Litig.*, 294 F. Supp. 2d 667, 678-79 (E.D. Pa. 2003); *In re Rezulin Prods. Liab. Litig.*, 2002 WL 31496228, at *1
24 (S.D.N.Y. Nov. 7, 2002); *In re Baycol Prods. Liab. Litig.*, 2002 WL 32155269, at *2 (D. Minn. July 5, 2002); *In re*
Diet Drugs Prods. Liab. Litig., 1999 WL 554584, at *3 (E.D. Pa. July 16, 1999); *Simmons v. Wyeth Labs., Inc.*, 1996
25 WL 617492, at *2-4 (E.D. Pa. Oct. 24, 1996); *In re Orthopedic Bone Screw Prods. Liab. Litig.*, 1995 WL 428683, at
*2, *6 (E.D. Pa. July 17, 1995).

26 ⁴ Should the Court not conclude that Defendant McKesson was fraudulently joined and not a necessary or
27 indispensable party, this same analysis applies to Plaintiffs Robert Eguina, Debra Fletcher, David Johnson, and
28 William Hinckley, all of whom are residents of California and would be non-diverse if McKesson’s citizenship were
considered. Because, like the New York Plaintiffs, they merely allege injuries purportedly caused by the same
medication, they too fail to satisfy the requirements for permissive joinder. Indeed, because the mere fact that
plaintiffs ingested a medication and suffered an injury is insufficient for permissive joinder, *all* of the plaintiffs to this
case are improperly joined in a single action. For present purposes, however, the Court need only focus on those

1 Because the New York Plaintiffs are not properly joined to this case, they are
 2 procedurally misjoined, and the proper remedy is to sever and remand their claims,
 3 as courts have routinely done in similar circumstances. *See Greene*, 344 F. Supp.
 4 2d at 685 (holding that “[d]efendants’ statutory right of removal has been frustrated
 5 by Plaintiffs’ improper joinder, and the interests of judicial expediency and justice
 6 weigh in favor of severance”); *In re Rezulin*, 2002 WL 31496228, at *1 (“Because
 7 the misjoinder of the New York and New Jersey plaintiffs would destroy complete
 8 diversity, the Court will sever the claims of those four plaintiffs so as to preserve
 9 the defendants’ right to removal of the remainder of the action.”); *Grennell v.*
 10 *Western Southern Life Insurance Co.*, 298 F. Supp. 2d 390 (S.D. W. Va. 2004)
 11 (noting that “[t]ypically, the proper remedy for misjoinder of plaintiffs would be
 12 severance of all claims and remand of the nondiverse plaintiffs’ claims”); *In re*
 13 *Rezulin*, 168 F. Supp. 2d at 148; *see also Stone v. Zimmer, Inc.*, 2009 WL 1809990,
 14 at *3-4 (S.D. Fla. June 25, 2009); *Sutton v. Davol, Inc.*, 251 F.R.D. 500, 504-05
 15 (E.D. Cal. 2008); *In re Guidant Corp. Implantable Defibrillators Prods. Liab.*
 16 *Litig.*, 2007 WL 2572048, at *2-3 (D. Minn. Aug. 30, 2007).

17 That result is particularly compelled by the existence of the Chantix MDL,
 18 transfer to which is only possible if the claims of the misjoined non-diverse
 19 plaintiffs are severed and remanded. Courts have held that the existence of an
 20 MDL militates in favor of finding procedural misjoinder and severing and
 21 remanding the misjoined claims. *See Sutton*, 251 F.R.D. at 504-05 (finding
 22 defendants’ argument “compelling . . . especially in light of the context of” existing
 23 MDL, and severing and remanding “to preserve the interests of judicial expediency
 24 and justice so that all pre-trial discovery on the products liability case can be
 25 coordinated in a single forum”); *In re Guidant*, 2007 WL 2572048, at *2 (severing
 26 claim “because of the nature, stage, and progression of [the] MDL”). So too should
 27 this Court find that the claims of the New York Plaintiffs (and any other plaintiff

28 plaintiffs whose presence would destroy diversity.


1 whose presence destroys diversity, *see* n.5) are procedurally misjoined and sever
 2 and remand those claims to state court, permitting transfer of this case to the federal
 3 MDL.⁵

4 **IX. CONCLUSION**

5 Accordingly, Pfizer respectfully requests that this action now pending against
 6 Defendants in the Superior Court of the State of California, County of Los Angeles,
 7 be removed to this Court and that this action be placed upon the docket of this
 8 Court for further proceedings as though originally instituted in this Court.

9
 10 Dated: July 14, 2011

11 DLA PIPER LLP (US)

12 By: 
 13 CHRISTOPHER M. YOUNG
 14 Attorneys for Defendant
 15 Pfizer Inc.

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 25
 26 ⁵ In the event the Court does not conclude that Defendant McKesson was fraudulently joined or not a necessary or
 27 indispensable party, but does conclude that the non-diverse plaintiffs' claims are procedurally misjoined and should
 28 be severed and remanded (including the California plaintiffs), removal is still proper even though McKesson is a
 citizen of the forum state, California, notwithstanding 28 U.S.C. § 1441(b). That is because "a resident defendant
 who has not been served may be ignored in determining removability." *Cucci v. Edwards*, 510 F. Supp. 2d 479, 482
 (C.D. Cal. 2007) (quoting 14A Charles A. Wright et al., *Federal Practice and Procedure* § 3723 (2d ed. 1985)).

EXHIBIT A

ORIGINAL

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 Sean O. McCrary SBN 276721
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 El Segundo, CA 90245
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Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA
 LOS ANGELES COUNTY

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF LOS ANGELES

JUL 01 2011

John A. Clarke, Executive Officer/Clerk
 By: Amber Lafleur-Clayton Deputy
 AMBER LAFLEUR-CLAYTON

Complex
 DA Richard RICO

BC464579

BY FAX

Case No.:

COMPLAINT FOR DAMAGES DUE TO:

1. NEGLIGENCE
2. STRICT PRODUCT LIABILITY-DESIGN DEFECT
3. STRICT PRODUCT LIABILITY-FAILURE TO WARN
4. BREACH OF EXPRESS WARRANTY
5. BREACH OF IMPLIED WARRANTY
6. FRAUDULENT MISREPRESENTATION AND CONCEALMENT
7. NEGLIGENT MISREPRESENTATION AND CONCEALMENT
8. GROSS NEGLIGENCE
9. UNJUST ENRICHMENT
10. PUNITIVE DAMAGES
11. VIOLATION OF CONSUMER LEGAL REMEDIES ACT
12. LOSS OF CONSORTIUM
13. WRONGFUL DEATH

STEVEN HEDLIN, QINA

MCKLUSKY, JOHN CHRISTOPHER SMITH, MICHAEL

NEWTON, VICKY SNYDER, ALAN TERRIO, JENNIE

TERRIO, HEATHER YOUNG, JERRY HANSON,

CHARLES DOMAN III, MALISSA BRYANT, KATHY

BURNETT, DIXIE CARVALHO, NANCY DUCOTE,

ROBERT EGUINA, JOHN WHITE, DEBRA FLETCHER,

CHARLA FERRELL, ABBY CHARLAND, JOHN

BARTLEY, TAMICA ROBINSON, REBECCA LEE,

SHELLIE JONES, WILLIAM HINCKLEY, ANN GORDON,

THERESA LERCH, SHERRYLYNN COUCH and HENRY

COUCH JR., CHANTAE WILLIAMS, BARRY

BRANDKAMP, JOHN AUSTIN, JR., STEPHAN COOPER,

LISA ROOKS, MARILYN LOCKRIDGE, JAMES LOWE,

MICHELLE RABER, JUDITH LITTLE, FERRAH

SZYMANSKI, JEFFREY HILL, DAVID JOHNSON, AMY

HENDERSON, DEBORAH WELTHER, SANDRA SMITH,

MICHELLE DELUCIA, CASANDRA BOIRE, ERNESTINE

DAVIS, SCOTT CASSADY, RALPH CONDON,

ELIZABETH JAUSEL, SYBRENA MALSOM, ARLENE

KORDICK, KATHY S. DAVIS, DAVID A. DUBREY,

CIT/CASE: RC464579 LEA/DEFN:
 RECEIPT #: CCHS03057103
 DATE PAID: 07/01/11 09:17:20 PM
 PAYMENT: \$945.00
 RECEIVED:
 CHECK: 945.00
 CASH:
 CHANGE:
 CARD:

COMPLAINT AND DEMAND FOR JURY TRIAL - 1

1 WALTER EMMERSON, LEVI MCCAIN, BOBBY J.
 2 HOLLOWELL, MICHAEL HOOD and LAURA HOOD,
 3 KANDIEANN D. KLINEDINST, WILBERT LANO JR.,
 4 LINDA S. LIEBELT and MICHAEL B. LIEBELT, CAMRIN
 5 J. MCDONALD, JIMMY W. MOFFETT, KENNETH
 6 NAPIER, AUBREY OXENDINE, CHARLOTTE
 7 PARKER, SANDY M. PRINCE, RENEE SINGLETON,
 8 KAY P. SLOCUM, VICTORIA SMALLWOOD, NANCY T.
 9 SOUTHERLIN, ROBYN K. SWEITZER, JESSICA TAISTO,
 10 KAREN J. WALKER, MICHAEL G. WEYRAUCH,
 11 MICHAEL WHEALEY, SHELIA WHITE, ANDRE
 12 YOUNG, DEREK CHARPENTIER, individually, and as
 13 surviving son of Jessica Charpentier, deceased, SHELBY
 14 GIESE is the personal representative of the estate of Laura
 15 Giese, deceased, LUROY DEGNER, individually, and as
 16 surviving spouse of Marie Degner, deceased, SALLY
 17 PORTER is the surviving mother of Dennis Jensen, deceased,
 18 PATRICIA HAINES-GENIESSE, individually, and as
 19 surviving spouse of Robert Geniesse, deceased, SHEENA
 20 ALLEN, individually, and as the surviving spouse of Lew
 21 Allen, deceased, CASEY WHITTINGTON, individually, and
 22 as the surviving daughter of Robert Warring, deceased,
 23 SUSAN CAFRO, individually, and as the mother of Daniel
 24 Albrizio, deceased, VIRGINIA TICE, individually, and as the
 25 surviving spouse of Dustin Tice, deceased, RUTH JOHNSON,
 26 individually, and as surviving spouse of Carl Johnson,
 27 deceased, CATHERINE BENNETT, individually, and as
 28 surviving spouse of Joseph E. Bennett, deceased, ERIC

COMPLAINT AND DEMAND FOR JURY TRIAL - 2

1 HOWARD, individually, and as surviving spouse of Stormie
 2 Howard, deceased, EARNESTINE COLBURN, individually,
 3 and as surviving spouse of James Colburn, LORENE
 4 COLLIER, individually, and as surviving spouse of Freddie
 5 Collier, MARTHA WAGES, individually, and as surviving
 6 spouse of James Wages II, deceased, JEAN CARROLL,
 7 individually, and as surviving spouse of Dennis Shoemaker,
 8 deceased,

9 Plaintiffs,

10 vs.

11 PFIZER INC., a corporation; MCKESSON
 12 CORP., a corporation; and Does 1 through 50,
 13 Defendants,

14
 15 Plaintiffs, STEVEN HEDLIN, GINA MCKLUSKY, JOHN CHRISTOPHER SMITH,
 16 MICHAEL NEWTON, VICKY SNYDER, ALAN TERRIO, JENNIE TERRIO, HEATHER
 17 YOUNG, JERRY HANSON, CHARLES DOMAN III, MALISSA BRYANT, KATHY
 18 BURNETT, DIXIE CARVALHO, NANCY DUCOTE, ROBERT EGUINA, JOHN WHITE,
 19 DEBRA FLETCHER, CHARLA FERRELL, ABBY CHARLAND, JOHN BARTLEY,
 20 TAMICA ROBINSON, REBECCA LEE, SHELLIE JONES, WILLIAM HINCKLEY, ANN
 21 GORDON, THERESA LERCH, SHERRYLYNN COUCH and HENRY COUCH JR.,
 22 CHANTAE WILLIAMS, BARRY BRANDKAMP, JOHN AUSTIN, JR., STEPHAN COOPER,
 23 LISA ROOKS, MARILYN LOCKRIDGE, JAMES LOWE, MICHELLE RABER, JUDITH
 24 LITTLE, FERRAH SZYMANSKI, JEFFREY HILL, DAVID JOHNSON, AMY HENDERSON,
 25 DEBORAH WELTHER, SANDRA SMITH, MICHELLE DELUCIA, CASANDRA BOIRE,
 26 ERNESTINE DAVIS, SCOTT CASSADY, RALPH CONDON, ELIZABETH JAUSEL,
 27 SYBRENA MALSOM, ARLENE KORDICK, KATHY S. DAVIS, DAVID A. DUBREY,
 28 WALTER EMMERSON, LEVI MCCAIN, BOBBY J. HOLLOWELL, MICHAEL HOOD and

57/BL/11

COMPLAINT AND DEMAND FOR JURY TRIAL - 3

1 LAURA HOOD, KANDIEANN D. KLINEDINST, WILBERT LANO JR., LINDA S. LIEBELT
 2 and MICHAEL B. LIEBELT, CAMRIN J. MCDONALD, JIMMY W. MOFFETT, KENNETH
 3 NAPIER, AUBREY OXENDINE, CHARLOTTE PARKER, SANDY M. PRINCE, RENEE
 4 SINGLETON, KAY P. SLOCUM, VICTORIA SMALLWOOD, NANCY T. SOUTHERLIN,
 5 ROBYN K. SWEITZER, JESSICA TAISTO, KAREN J. WALKER, MICHAEL G.
 6 WEYRAUCH, MICHAEL WHEALEY, SHELIA WHITE, ANDRE YOUNG, DEREK
 7 CHARPENTIER, individually, and as surviving son of Jessica Charpentier, deceased, SHELBY
 8 GIESE is the personal representative of the estate of Laura Giese, deceased, LEROY DEGNER,
 9 individually, and as surviving spouse of Marie Degner, deceased, SALLY PORTER is the
 10 surviving mother of Dennis Jensen, deceased, PATRICIA HAINES-GENIESSE, individually,
 11 and as surviving spouse of Robert Geniesse, deceased, SHEENA ALLEN, individually, and as
 12 the surviving spouse of Lew Allen, deceased, CASEY WHITTINGTON, individually, and as the
 13 surviving daughter of Robert Watring, deceased, SUSAN CAFRO, individually, and as the
 14 mother of Daniel Albrizio, deceased, VIRGINIA TICE, individually, and as the surviving spouse
 15 of Dustin Tice, deceased, RUTH JOHNSON, individually, and as surviving spouse of Carl
 16 Johnson, deceased, CATHERINE BENNETT, individually, and as surviving spouse of Joseph E.
 17 Bennett, deceased, ERIC HOWARD, individually, and as surviving spouse of Stormie Howard,
 18 deceased, EARNESTINE COLBURN, individually, and as surviving spouse of James Colburn,
 19 LORENE COLLIER, individually, and as surviving spouse of Freddie Collier, MARTHA
 20 WAGES, individually, and as surviving spouse of James Wages II, deceased, JEAN CARROLL,
 21 individually, and as surviving spouse of Dennis Shoemaker, deceased, (hereinafter "Plaintiffs")
 22 allege the following:

23 PARTIES

24 *Plaintiffs*

- 25 1. Jerry Hanson ("Mr. Hanson") is a resident of Bemidji, Minnesota. Mr. Hanson attempted
 26 suicide as a result of using the prescription drug Chantix.
- 27 2. Steven Hedlin ("Mr. Hedlin") is a resident of Clarkston, Utah. Mr. Hedlin attempted
 28 suicide as a result of using the prescription drug Chantix.

- 1 3. Gina McKlusky ("Ms. Jones") is a resident of Tuscon, Arizona. Ms. McKlusky
2 attempted suicide as a result of using the prescription drug Chantix.
- 3 4. Vicky Snyder ("Ms. Snyder") is a resident of Monongahela, Pennsylvania. Ms. Snyder
4 attempted suicide as a result of using the prescription drug Chantix.
- 5 5. Alan Terrio ("Mr. Terrio") is a resident of Waterville, Maine. Mr. Terrio attempted
6 suicide as a result of using the prescription drug Chantix.
- 7 6. Jennie Terrio ("Mrs. Terrio") is a resident of Waterville, Maine. Mrs. Terrio attempted
8 suicide as a result of using the prescription drug Chantix.
- 9 7. Heather Young ("Ms. Young") is a resident of St. Louis, Missouri. Ms. Young attempted
10 suicide as a result of using the prescription drug Chantix.
- 11 8. Michael Newton ("Mr. Newton") is a resident of Ponte Vedra Beach, Florida. Mr.
12 Newton attempted suicide as a result of using the prescription drug Chantix.
- 13 9. Robert Eguina ("Mr. Eguina") is a resident of Grass Valley, California. Mr. Eguina
14 attempted suicide as a result of using the prescription drug Chantix.
- 15 10. Nancy Ducote ("Ms. Ducote") is a resident of South Charlotte, North Carolina. Ms.
16 Ducote attempted suicide as a result of using the prescription drug Chantix.
- 17 11. Malissa Bryant ("Ms. Bryant") is a resident of Gresham, Oregon. Ms. Bryant attempted
18 suicide as a result of using the prescription drug Chantix.
- 19 12. Kathy Burnett ("Ms. Burnett") is a resident of Ames, Iowa. Ms. Burnett attempted
20 suicide as a result of using the prescription drug Chantix.
- 21 13. Dixie Carvalho ("Ms. Carvalho") is a resident of Woodstock, Georgia. Ms. Carvalho
22 attempted suicide as a result of using the prescription drug Chantix.
- 23 14. Debra Fletcher ("Ms. Fletcher") is a resident of Bakersfield, California. Ms. Fletcher
24 attempted suicide as a result of using the prescription drug Chantix.
- 25 15. Shelby Giese is the sister of Laura Giese (hereinafter, "Decedent Giese") who committed
26 suicide on March 28, 2009 as a result of taking Chantix. Decedent Giese resided in Cottage
27 Grove, Wisconsin at the time of her death.
- 28

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1 16. Derek Charpentier is the son of Jessica Charpentier (hereinafter, "Decedent Charpentier")
2 who committed suicide in the year 2008 as a result of taking Chantix. Decedent Charpentier
3 resided in Sidney, New York at the time of her death.

4 17. John White ("Mr. White") is a resident of Saint Paul, Minnesota. Mr. White attempted
5 suicide as a result of using the prescription drug Chantix.

6 18. Charla Ferrell ("Mrs. Ferrell") is a resident of Graford, Texas. Mrs. Ferrell attempted
7 suicide as a result of using the prescription drug Chantix.

8 19. Abby Charland ("Ms. Charland") is a resident of South Hadley, Massachusetts. Ms.
9 Charland attempted suicide on two occasions as a result of using the prescription drug
10 Chantix.

11 20. Jean Carroll is the surviving spouse of Dennis Shoemaker (hereinafter, "Decedent
12 Shoemaker") who committed suicide in February 2009 as a result of using the prescription
13 drug Chantix. Decedent Shoemaker resided in Charlotte, North Carolina at the time of his
14 death.

15 21. Tamica Robinson ("Ms. Robinson") is a resident of Winston-Salem, North Carolina. Ms.
16 Robinson attempted suicide on two occasions as a result of using the prescription drug
17 Chantix.

18 22. Rebecca Lee ("Ms. Lee") is a resident of Lebanon, Pennsylvania. Ms. Lee attempted
19 suicide as a result of using the prescription drug Chantix.

20 23. Leroy Degner is the surviving spouse of Marie Degner (hereinafter, "Decedent Degner")
21 who committed suicide on November 19, 2007 as a result of using the prescription drug
22 Chantix. Decedent Degner resided in Irma, Wisconsin at the time of her death.

23 24. Sheena Allen is the surviving spouse of Lew Allen (hereinafter, "Decedent Allen") who
24 committed suicide on March 30, 2010 as a result of taking Chantix. Decedent Allen resided
25 in Gig Harbor, Washington at the time of his death.

26 25. David Johnson ("Mr. Johnson") is a resident of Clarksburg, California. Mr. Johnson
27 attempted suicide as a result of using the prescription drug Chantix.
28

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1 26. Susan Cafro is the mother of Daniel Albrizio (hereinafter, "Decedent Albrizio") who
 2 committed suicide in 2007 as a result of using the prescription drug Chantix. Decedent
 3 Albrizio resided in Palmyra, Tennessee at the time of his death.

4 27. James Lowe ("Mr. Lowe") is a resident of Houston, Texas. Mr. Lowe attempted suicide
 5 as a result of using the prescription drug Chantix.

6 28. Martha Wages is the mother of James Wages II (hereinafter, "Decedent Wages") who
 7 committed suicide on September 9, 2007 as a result of taking Chantix. Decedent Wages
 8 resided in Sommerville, Tennessee at the time of his death.

9 29. Virginia Tice is the surviving spouse of Dustin Tice (hereinafter, "Decedent Tice") who
 10 committed suicide on August 2, 2007. Decedent Tice resided in Sunbury, Ohio at the time of
 11 his death.

12 30. Casey Whittington is the daughter of Robert Watring (hereinafter, "Decedent Watring")
 13 who committed suicide on September 14, 2010 as a result of taking Chantix. Decedent
 14 Watring resided in Cleveland, Ohio at the time of his death.

15 31. Lisa Rooks ("Ms. Rooks") is a resident of Devine, Texas. Ms. Rooks attempted suicide
 16 as a result of using the prescription drug Chantix.

17 32. Marilyn Lockridge ("Ms. Lockridge") is a resident of Toledo, Ohio. Ms. Lockridge
 18 attempted suicide as a result of using the prescription drug Chantix.

19 33. Judith Little ("Ms. Little") is a resident of Chesterfield, Missouri. Ms. Little attempted
 20 suicide as a result of using the prescription drug Chantix.

21 34. Jeffrey Hill ("Mr. Hill") is a resident of Reynoldsburg, Ohio. Mr. Hill attempted suicide
 22 as a result of using the prescription drug Chantix.

23 35. Amy Henderson ("Ms. Henderson") is a resident of Eldorado, Kansas. Ms. Henderson
 24 attempted suicide as a result of using the prescription drug Chantix.

25 36. Deborah Welther ("Ms. Welther") is a resident of Sebawaing, Michigan. Ms. Welther
 26 attempted suicide as a result of using the prescription drug Chantix.

27 37. Sandra Smith ("Ms. Smith") is a resident of Tulsa, Oklahoma. Ms. Smith attempted
 28 suicide as a result of using the prescription drug Chantix.

1 38. Michelle Delucia ("Ms. Delucia") is a resident of Keyport, New Jersey. Ms. Delucia
2 attempted suicide as a result of using the prescription drug Chantix.

3 39. Casandra Boire ("Ms. Boire") is a resident of Rock Island, Washington. Ms. Boire
4 attempted suicide as a result of using the prescription drug Chantix.

5 40. Ernestine Davis ("Ms. Davis") is a resident of Nederland, Texas. Ms. Davis attempted
6 suicide as a result of using the prescription drug Chantix.

7 41. Scott Cassady ("Mr. Cassady") is a resident of Atlantic Beach, Florida. Mr. Cassady
8 attempted suicide as a result of using the prescription drug Chantix.

9 42. Ferrah Szymanski ("Ms. Szymanski") is a resident of Sealy, Texas. Ms. Szymanski
10 attempted suicide as a result of using the prescription drug Chantix.

11 43. Ralph Condon ("Mr. Condon") is a resident of Queensbury, New York. Mr. Condon
12 attempted suicide on two occasions as a result of using the prescription drug Chantix.

13 44. Henry Couch, Jr. ("Mr. Couch") is a resident of Cleveland, Georgia. Mr. Couch
14 attempted suicide as a result of using the prescription drug Chantix.

15 45. Elizabeth Jausel ("Ms. Jausel") is a resident of Nashville, Illinois. Ms. Jausel attempted
16 suicide as a result of using the prescription drug Chantix.

17 46. Ruth Johnson is the surviving spouse of Carl Johnson (hereinafter, "Decedent Johnson")
18 who committed suicide on December 6, 2009 as a result of using the prescription drug
19 Chantix. Decedent Johnson resided in Bridgeport, Ohio at the time of his death.

20 47. Catherine Bennett is the surviving spouse of Joseph E. Bennett (hereinafter, "Decedent
21 Bennett") who committed suicide on March 27, 2008 as a result of using the prescription
22 drug Chantix. Decedent Bennett resided in Robertsville, Missouri at the time of his death.

23 48. Patricia Haines-Geniesse is the surviving spouse of Robert Geniesse (hereinafter,
24 "Decedent Geniesse") who committed suicide on October 8, 2009 as a result of taking
25 Chantix. Decedent Geniesse resided in Cary, Illinois at the time of his death.

26 49. Sally Porter is the surviving mother of Dennis Jensen (hereinafter, "Decedent Jensen")
27 who committed suicide on April 25, 2007 as a result of taking Chantix. Decedent Jensen
28 resided in Fort Collins, Colorado at the time of his death.

1 50. John Bartley ("Mr. Bartley") is a resident of Owensboro, Kentucky. Mr. Bartley
2 attempted suicide as a result of using the prescription drug Chantix.

3 51. Shellie Jones ("Ms. Jones") is a resident of Dothan, Alabama. Ms. Jones attempted
4 suicide as a result of using the prescription drug Chantix.

5 52. William Hinckley ("Mr. Hinckley") is a resident of Glendale, California. Mr. Hinckley
6 attempted suicide as a result of using the prescription drug Chantix.

7 53. Michelle Raber ("Ms. Raber") is a resident of Martinsburg, Wisconsin. Ms. Raber
8 attempted suicide as a result of using the prescription drug Chantix.

9 54. Theresa Lerch ("Ms. Lerch") is a resident of Cranston, Rhode Island. Ms. Lerch
10 attempted suicide as a result of using the prescription drug Chantix.

11 55. Ann Gordon ("Ms. Gordon") is a resident of Solon Springs, Wisconsin. Ms. Gordon
12 attempted suicide as a result of using the prescription drug Chantix.

13 56. Chantac Williams ("Mrs. Williams") is a resident of Bellefonte, Pennsylvania. Mrs.
14 Williams attempted suicide as a result of using the prescription drug Chantix.

15 57. John Christopher Smith ("Mr. Smith") is a resident of Kernersville, North Carolina. Mr.
16 Smith suffered suicidal thoughts and depression as a result of using the prescription drug
17 Chantix.

18 58. Barry Brandkamp ("Mr. Brandkamp") is a resident of Acworth, Georgia. Mr.
19 Brandkamp attempted suicide as a result of using the prescription drug Chantix.

20 59. John Austin, Jr. ("Mr. Austin") is a resident of Lake City, Minnesota. Mr. Austin
21 attempted suicide as a result of using the prescription drug Chantix.

22 60. Stefan Cooper ("Mr. Cooper") is a resident of Naperville, Illinois. Mr. Cooper attempted
23 suicide as a result of using the prescription drug Chantix.

24 61. Eric Howard is the surviving spouse of Stormie Howard (hereinafter, "Decedent
25 Howard") who committed suicide on September 23, 2010 as a result of taking Chantix.
26 Decedent Howard resided in Phoenix, Arizona at the time of her death.

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62. Earnestine Colburn is the surviving spouse of James Colburn (hereinafter, "Decedent Colburn") who committed suicide on February 3, 2009 as a result of taking Chantix.

Decedent Colburn resided in Winefield, Alabama at the time of his death.

63. Levi McCain ("Mr. McCain") is a resident of Las Vegas, Nevada. Mr. Levin attempted suicide as a result of using the prescription drug Chantix.

64. Sybrena Malsom ("Ms. Malsom") is a resident of Globe, Arizona. Ms. Malsom attempted suicide as a result of using the prescription drug Chantix.

65. Charles Doman, III ("Mr. Doman") is a resident of Philadelphia, Pennsylvania. Mr. Doman attempted suicide as a result of using the prescription drug Chantix.

66. Lorene Collier is the surviving spouse of Freddie Collier (hereinafter, "Decedent Collier") who committed suicide on October 26, 2008 as a result of taking Chantix.

Decedent Collier resided in Chattanooga, Tennessee at the time of his death.

67. Kathy S. Davis ("Ms. Davis") is a resident of Marion, Ohio. Ms. Davis suffered blackouts/seizures as a result of using the prescription drug Chantix.

68. David A. Dubrey ("Mr. Dubrey") is a resident of Plattsburgh, New York. Mr. Dubrey suffered blackouts/seizures as a result of using the prescription drug Chantix.

69. Walter R. Emmerson ("Mr. Emmerson") is a resident of Summerfield, Florida. Mr. Emmerson developed diabetes as a result of using the prescription drug Chantix.

70. Bobby J. Hollowell ("Mr. Hollowell") is a resident of Huntingdon, Tennessee. Mr. Hollowell suffered seizures and blackouts as a result of using the prescription drug Chantix.

71. Laura Hood ("Mrs. Hood") is a resident of Akron, Ohio. Mrs. Hood suffered seizures as a result of using the prescription drug Chantix.

72. Kandicann D. Klinedinst ("Mrs. Klinedinst") is a resident of Sykesville, Maryland. Mrs. Klinedinst suffered seizures as a result of using the prescription drug Chantix.

73. Wilbert Lano Jr. ("Mr. Lano") is a resident of Pennsville, New Jersey. Mr. Lano developed diabetes as a result of using the prescription drug Chantix.

74. Michael B. Liebelt ("Mr. Liebelt") is a resident of Tonkawa, Oklahoma. Mr. Liebelt suffered a blackout as a result of using the prescription drug Chantix.

1 75. Camrin J. McDonald ("Mrs. McDonald") is a resident of Johnson Creek, Wisconsin.
 2 Mrs. McDonald suffered seizures as a result of using the prescription drug Chantix.

3 76. Jimmy W. Moffett ("Mr. Moffett") is a resident of Zachary, Louisiana. Mr. Moffett
 4 suffered seizures as a result of using the prescription drug Chantix.

5 77. Kenneth Napier ("Mr. Napier") is a resident of Fleming Island, Florida. Mr. Napier
 6 developed diabetes as a result of using the prescription drug Chantix.

7 78. Aubrey Oxendine ("Mr. Oxendine") is a resident of Laurinburg, North Carolina. Mr.
 8 Oxendine suffered a seizure/stroke as a result of using the prescription drug Chantix.

9 79. Charlotte Parker ("Ms. Parker") is a resident of Sparta, Wisconsin. Ms. Parker suffered
 10 seizures as a result of using the prescription drug Chantix.

11 80. Sandy M. Prince ("Ms. Prince") is a resident of Orrum, North Carolina. Ms. Prince
 12 suffered seizures as a result of using the prescription drug Chantix.

13 81. Kevin E. Riggle is the surviving spouse of Laurie L. Riggle (hereinafter "Decedent
 14 Riggle") who died on January 7, 2010 as a result of using the prescription drug Chantix.
 15 Decedent Riggle resided in Gainesville, Georgia at the time of her death.

16 82. Renee Singleton ("Ms. Singleton") is a resident of Brooklyn, New York. Ms. Singleton
 17 developed diabetes as a result of using the prescription drug Chantix.

18 83. Kay P. Slocum ("Mrs. Slocum") is a resident of Carrollton, Mississippi. Mrs. Slocum
 19 developed diabetes as a result of using the prescription drug Chantix.

20 84. Victoria Smallwood ("Mrs. Smallwood") is a resident of Manassas, Virginia. Mrs.
 21 Smallwood suffered blackouts/seizures as a result of using the prescription drug Chantix.

22 85. Nancy T. Southerlin ("Ms. Southerlin") is a resident of Greenville, South Carolina. Ms.
 23 Southerlin developed diabetes as a result of using the prescription drug Chantix.

24 86. Robyn K. Sweitzer ("Mrs. Sweitzer") is a resident of Ardmore, Tennessee. Mrs.
 25 Sweitzer developed diabetes as a result of using the prescription drug Chantix.

26 87. Jessica Taisto ("Mrs. Taisto") is a resident of Albuquerque, New Mexico. Mrs. Taisto
 27 developed diabetes as a result of using the prescription drug Chantix.
 28

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1 88. Karen J. Walker ("Ms. Walker") is a resident of Ashley, Illinois. Ms. Walker developed
2 diabetes as a result of using the prescription drug Chantix.

3 89. Michael G. Weyrauch ("Mr. Weyrauch") is a resident of Saint Cloud, Minnesota. Mr.
4 Weyrauch developed diabetes as a result of using the prescription drug Chantix.

5 90. Michael Whealey ("Mr. Whealey") is a resident of Olathe, Kansas. Mr. Whealey
6 suffered blackouts/seizures as a result of using the prescription drug Chantix.

7 91. Shelia White ("Ms. White") is a resident of Chicago, Illinois. Ms. White suffered
8 blackouts/seizures as a result of using the prescription drug Chantix.

9 92. Andre Young ("Mr. Young") is a resident of Greensboro, North Carolina. Mr. Young
10 suffered blackouts/seizures as a result of using the prescription drug Chantix.

11 *Defendants*

12 93. Defendant Pfizer Incorporated ("PFIZER" or "Defendant") is a Delaware
13 corporation with its principal place of business at 235 East 42nd Street, New York, New
14 York 10017.

15 94. PFIZER is and at all times material to this action was authorized to do business,
16 and engaged in business in the state of California. PFIZER derives substantial revenue from
17 goods consumed within the State of California.

18 95. At all times relevant to this action, PFIZER was engaged in the business of
19 developing, researching, designing, testing, developing, manufacturing, advertising,
20 promoting, warranting, and selling in interstate commerce the prescription drug Chantix,
21 either directly or indirectly through third parties or related entities.

22 96. Defendant MCKESSON CORPORATION ("MCKESSON") is a Delaware
23 Corporation with its principal place of business at One Post Street, San Francisco, California,
24 94104. Defendant McKesson Corporation is authorized to do business in the State of
25 California and is engaged in substantial commerce and business activity in the County of Los
26 Angeles.

27 97. At all times relevant hereto, MCKESSON was engaged in the business of
28 distributing, selling and/or warranting CHANTIX in the State of California.

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1 98. The true names and capacities, whether individual, corporate, or otherwise, of
 2 Defendants DOES 1 through 50, inclusive, are unknown to Plaintiffs who therefore sue said
 3 Defendants by such fictitious names. Plaintiffs believe and allege that each of the defendants
 4 designated herein by fictitious names is in some manner legally responsible for the events
 5 and happenings herein referred to and caused damages proximately and foreseeably to
 6 Plaintiffs as alleged herein.

7 99. At all times herein alleged, "Defendants" include all herein named Defendants as
 8 well as Defendants DOES 1 through 50, inclusive.

9 Jurisdiction and Venue

10 100. The California Superior Court has jurisdiction over this action pursuant to
 11 California Constitution Article VI, Section 10, which grants the Superior Court "original
 12 jurisdiction in all causes except those given by statute to other trial courts." The Statutes
 13 under which this action is brought do not specify any other basis for jurisdiction.

14 101. The California Superior Court has jurisdiction over all Defendants because,
 15 based on information and belief, each is a corporation and/or entity and/or person organized
 16 under the laws of the State of California, a foreign corporation or association authorized to do
 17 business in California and registered with the California Secretary of State or that has
 18 sufficient minimum contacts in California, is a citizen of California, or otherwise
 19 intentionally avails itself of the California market so as to render the exercise of jurisdiction
 20 over it by the California courts consistent with traditional notions of fair play and substantial
 21 justice.

22 102. Furthermore the Defendants and MCKESSON have purposefully availed
 23 themselves of the benefits and the protections of the laws within the State of California.
 24 Defendant MCKESSON has its principle place of business within the state. The Defendants
 25 and MCKESSON have had sufficient contact such that the exercise of jurisdiction would be
 26 consistent with the traditional notions of fair play and substantial justice.

27 103. At all times relevant to this Complaint, on information and belief, MCKESSON
 28 sold CHANTIX throughout Los Angeles County.

FACTS

104. Plaintiff Steven Hedlin was prescribed and used Chantix from approximately April 2009 through May 2009. On approximately May 2009 Mr. Hedlin attempted suicide by overdosing on medication and was hospitalized.

105. Plaintiff Gina McKlusky was prescribed and used Chantix for three months in the year 2008. While taking Chantix Ms. McKlusky attempted suicide by overdosing on medication and was hospitalized.

106. Plaintiff Jerry Hanson was prescribed and used Chantix from approximately 2009 through July 2010. On approximately July 2010 Mr. Hanson attempted suicide by overdosing on medication and was hospitalized.

107. Plaintiff Vicky Snyder was prescribed and used Chantix from approximately June 2008 through September 2008. On approximately September 2008 Ms. Snyder attempted suicide by overdosing on medication and was hospitalized.

108. Plaintiff Alan Terrio was prescribed and used Chantix for a month in 2007. In 2007, while taking Chantix, Mr. Terrio attempted suicide by overdosing on medication and was hospitalized.

109. Plaintiff Jennie Terrio was prescribed and used Chantix from approximately January 2009 through March 2009. On approximately March 2009 Ms. Terrio attempted suicide by overdosing on medication and was hospitalized.

110. Plaintiff John Christopher Smith was prescribed and used Chantix for approximately three months beginning in January 2006. On approximately January 2006 Mr. Smith began suffering suicidal thoughts and depression.

111. Plaintiff Heather Young was prescribed and used Chantix for four or five months in the year 2008. In 2008, while taking Chantix, Ms. Young attempted suicide by overdosing on medication and was hospitalized.

112. Plaintiff Jerry Hanson was prescribed and used Chantix from approximately 2009 through July 2010. On approximately July 2010 Mr. Hanson attempted suicide by overdosing on medication and was hospitalized.

1 113. Plaintiff Malissa Bryant was prescribed and used Chantix from approximately
2 October 2008 through November 2008. On approximately November 2008 Ms. Bryant
3 attempted suicide by overdosing on medication and was hospitalized.

4 114. Plaintiff Kathy Burnett was prescribed and used Chantix from approximately
5 May 2009 through October 2009. On approximately December 2009 Ms. Burnett attempted
6 suicide by overdosing on medication and was hospitalized.

7 115. Plaintiff Dixie Carvalho was prescribed and used Chantix from approximately
8 April 2008 through May 2008. On approximately May 2008 Ms. Carvalho attempted suicide
9 by driving into a tree and was hospitalized.

10 116. Plaintiff Nancy Ducote was prescribed and used Chantix from approximately
11 February 2010 through May 2010. On approximately May 2010 Ms. Ducote attempted
12 suicide by overdosing on medication and by slitting her wrists and was hospitalized.

13 117. Plaintiff Debra Fletcher was prescribed and used Chantix from approximately
14 November 2006 through December 2006. On approximately December 2006 Ms. Fletcher
15 attempted suicide by slitting her wrists and was hospitalized.

16 118. Plaintiff Robert Eguina was prescribed and used Chantix from approximately
17 September 2009 through October 2009 or October 2010. On approximately October 2009 or
18 October 2010 Mr. Eguina attempted suicide by overdosing on medication and was
19 hospitalized.

20 119. Decedent Laura Gicso was prescribed and used Chantix from approximately
21 2009 through March 28, 2009, when she committed suicide by overdosing on medication.

22 120. Decedent Jessica Charpentier was prescribed and used Chantix in 2008, while
23 taking Chantix Decedent Charpentier committed suicide by hanging herself.

24 121. Plaintiff John White was prescribed and used Chantix from approximately May
25 2010 through July 2010. On approximately August 2010 Mr. White attempted to shoot
26 himself and was hospitalized.

27 122. Plaintiff Tarnica Robinson was prescribed and used Chantix from approximately
28 July 2006 through August 2006. On approximately August 2006 Ms. Robinson attempted

1 suicide by overdosing on medication and was hospitalized. On approximately September
2 2006 Ms. Robinson attempted suicide again by walking into on coming traffic with her hands
3 taped together, but she blacked out and was taken to the hospital.

4 123. Decedent Dennis Shoemaker was prescribed and used Chantix from
5 approximately September 2008 through February 2009, when he committed suicide by
6 shooting himself to death.

7 124. Plaintiff Charla Ferrell was prescribed and used Chantix from approximately
8 August 2008 through September 2008. On approximately October 2008 Mrs. Ferrell
9 attempted suicide by ingesting a bottle of medication and was hospitalized.

10 125. Plaintiff Abby Charland was prescribed and used Chantix from approximately
11 November 3, 2008 through January 2009. On approximately January 2009 Ms. Charland
12 attempted suicide by overdosing on medication and was hospitalized.

13 126. Ms. Charland used Chantix again from January 4, 2010 through February 28,
14 2010, when she attempted suicide again by overdosing on medication and was hospitalized.

15 127. Plaintiff Rebecca Lee was prescribed and used Chantix from approximately
16 September 2008 through January 2009. On approximately January 2009 Ms. Lee attempted
17 suicide by overdosing on medication and was hospitalized.

18 128. Ms. Lee was prescribed and used Chantix again from approximately February
19 2009 through April 2009. On approximately April 2009 Ms. Lee attempted suicide again by
20 ingesting a bottle of Xanax and was hospitalized.

21 129. Decedent Marie Degner was prescribed and used Chantix from approximately
22 October 2007 through November 19, 2007, when she committed suicide by shooting herself
23 to death.

24 130. Plaintiff Michelle Raber was prescribed and used Chantix from approximately
25 August 2007 through November 19, 2007. On approximately November 19, 2007 Mr. Raber
26 attempted suicide by ingesting a bottle of Tylenol PM and was hospitalized.

1 131. Decedent Robert Watring was prescribed and used Chantix from approximately
2 October 2009 through September 14, 2010, when he committed suicide by shooting himself
3 in the chest.

4 132. Plaintiff Lisa Rooks was prescribed and used Chantix for approximately three
5 weeks in February 2009. On approximately February 2009 Ms. Rooks attempted suicide by
6 overdosing on sleeping pills and Xanax and was hospitalized.

7 133. Ms. Rooks was prescribed and used Chantix again from approximately February
8 2011 through April 2011. On approximately April 2011 Ms. Rooks attempted suicide by
9 overdosing on Xanax and was hospitalized.

10 134. Plaintiff Marilyn Lockridge was prescribed and used Chantix in 2008. While
11 taking Chantix Ms. Lockridge attempted suicide by overdosing on Chantix and was
12 hospitalized.

13 135. Plaintiff Judith Little was prescribed and used Chantix from approximately
14 March 2009 through April 2009. On approximately April 2009 Ms. Little attempted suicide
15 by ingesting a bottle of prescription medication and was hospitalized.

16 136. Plaintiff Jeffrey Hill was prescribed and used Chantix from approximately March
17 2011 through May 2011. On approximately May 2011 Mr. Hill attempted suicide by
18 ingesting a bottle of Soma and was hospitalized.

19 137. Plaintiff Amy Henderson was prescribed and used Chantix for approximately six
20 weeks in 2008 or 2009. While taking Chantix Ms. Henderson attempted suicide by
21 overdosing on prescription medication and was hospitalized.

22 138. Plaintiff Deborah Welther was prescribed and used Chantix from approximately
23 October 2009 through January 2010. On approximately January 2010 Ms. Welther attempted
24 suicide by overdosing on several medications and was hospitalized.

25 139. Plaintiff Sandra Smith was prescribed and used Chantix for approximately one
26 month in 2006 or 2007. While taking Chantix Ms. Smith attempted suicide by overdosing
27 several different medications and was hospitalized.
28

1 140. Plaintiff Michelle Delucia was prescribed and used Chantix for a month on
2 approximately May 2010. On approximately May 2010 Ms. Delucia attempted suicide by
3 overdosing on pain medication and was hospitalized.

4 141. Plaintiff Casandra Boire was prescribed and used Chantix from approximately
5 October 2008 through January 2009. On approximately January 2009 Ms. Boire attempted
6 suicide by overdosing on pain medication and was hospitalized.

7 142. Plaintiff Ernestine Davis was prescribed and used Chantix from approximately
8 July through August of 2007 or 2008. On or about August of 2007 or 2008 Ms. Davis
9 attempted suicide by overdosing on medication and was hospitalized.

10 143. Plaintiff Scott Cassady was prescribed and used Chantix for approximately three
11 months in the year 2006. During that time Mr. Cassady attempted suicide by overdosing on
12 medication and cutting his wrists and was hospitalized.

13 144. Plaintiff Ralph Condon was prescribed and used Chantix from approximately
14 July 2010 through February 2011. In late 2010 Mr. Condon attempted to shoot himself and
15 was hospitalized. On approximately February 2011 Mr. Condon attempted to shoot himself
16 again and was hospitalized.

17 145. Plaintiff Ferrah Szymanski was prescribed and used Chantix from approximately
18 July 2008 through August 2008. On approximately August 2008 Ms. Szymanski attempted
19 suicide by overdosing on medication and was hospitalized.

20 146. Plaintiff Henry Couch was prescribed and used Chantix for one month in 2007 or
21 2008. While taking Chantix Mr. Couch attempted suicide by overdosing on alcohol and
22 Valium and was hospitalized.

23 147. Plaintiff Elizabeth Jausel was prescribed and used Chantix from approximately
24 November 2007 through January 2008. On approximately January 2008 Ms. Jausel
25 attempted suicide by overdosing on medication and was hospitalized.

26 148. Decedent Carl Johnson was prescribed and used Chantix from approximately
27 September 2009 through October 2009. On December 6, 2009 Mr. Johnson committed
28 suicide by hanging himself.

1 149. Decedent Lew Allen was prescribed and used Chantix from approximately
2 March 2010 through March 30, 2010, when he committed suicide by shooting himself to
3 death.

4 150. Decedent Joseph Bennett was prescribed and used Chantix from approximately
5 January 2008 through March 27, 2008, when he committed suicide by shooting himself to
6 death.

7 151. Decedent James Wages II was prescribed and used Chantix in the year 2007
8 through September 9, 2007, when he committed suicide by shooting himself to death.

9 152. Decedent Robert Geniesse was prescribed and used Chantix from approximately
10 August 25, 2009 through October 8, 2009, when he committed suicide by overdosing on
11 several medications.

12 153. Decedent Dennis Jensen was prescribed and used Chantix from approximately
13 March 2007 through April 25, 2007, when he committed suicide.

14 154. Decedent Tice was prescribed and used Chantix from approximately July 2007
15 through August 2, 2007, when he committed suicide by hanging himself.

16 155. Decedent Daniel Albrizio was prescribed and used Chantix in 2007. While
17 taking Chantix, Decedent Albrizio committed suicide by overdosing on pills.

18 156. Plaintiff David Johnson was prescribed and used Chantix from approximately
19 January 2009 through April 2009. On approximately April 2009 Mr. Johnson attempted to
20 shoot himself and was hospitalized as a result.

21 157. Plaintiff James Lowe was prescribed and used Chantix from approximately
22 September 2010 through November 2010. On approximately November 2010 Mr. Lowe
23 attempted suicide by ingesting large amounts of alcohol and was hospitalized as a result.

24 158. Plaintiff William Hinckley was prescribed and used Chantix from approximately
25 the year 2006 through at least 2011. On approximately May 2007 Mr. Hinckley suffered a
26 heart attack. While taking Chantix, Mr. Hinckley attempted suicide by overdosing on
27 prescription medication.
28

1 159. Plaintiff John Bartley was prescribed and used Chantix from approximately the
2 year 2008 through 2009. While taking Chantix Mr. Bartley attempted suicide by overdosing
3 on sleeping pills and was hospitalized.

4 160. Plaintiff Shellie Jones was prescribed and used Chantix from approximately
5 January 2008 through February 2008. On approximately February 2008 Ms. Jones attempted
6 suicide by overdosing on medication and was hospitalized.

7 161. Plaintiff Theresa Lerch was prescribed and used Chantix from approximately
8 September 2009 through December 2009. On approximately January 2010 Ms. Lerch
9 attempted suicide by cutting her wrists and was hospitalized.

10 162. Plaintiff Ann Gordon was prescribed and used Chantix from approximately May
11 2009 through August 2009. On or about August 2009 Ms. Gordon attempted suicide by
12 overdosing on medication and was hospitalized.

13 163. Plaintiff Chantae Williams was prescribed and used Chantix in the year 2008.
14 While taking Chantix Mrs. Williams attempted suicide by slitting her wrists and was
15 hospitalized.

16 164. Plaintiff Barry Brandkamp was prescribed and used Chantix from approximately
17 January 2009 through March 2009. On approximately June 2009 Mr. Brandkamp attempted
18 suicide by overdosing on medication and was hospitalized.

19 165. Plaintiff John Austin Jr. was prescribed and used Chantix from approximately
20 September 2008 through October 21, 2008. On approximately October 21, 2008 Mr. Austin
21 attempted to hang himself and was hospitalized.

22 166. Plaintiff Stefan Cooper was prescribed and used Chantix for two months in the
23 year 2007. In 2007, while taking Chantix, Mr. Cooper attempted suicide by ingesting a
24 bottle of Tylenol PM and was hospitalized.

25 167. Decedent Stormie Howard was prescribed and used Chantix from approximately
26 July 2010 through September 23, 2010, when she committed suicide by overdosing on
27 prescription medication.
28

1 168. Decedent James Colburn was prescribed and used Chantix from approximately
2 December 19, 2008 through either January or February 2009. On approximately January
3 2009 Decedent Colburn suffered a stroke. On February 3, 2009 Decedent Colburn
4 committed suicide by shooting to himself to death.

5 169. Plaintiff Levi McCain was prescribed and used Chantix in late 2006 for one
6 month. In late 2006, while taking Chantix, Mr. McCain attempted suicide by ingesting a
7 bottle of antibiotics and any other medication he could find and was hospitalized.

8 170. Plaintiff Charles Doman III was prescribed and used Chantix from approximately
9 August 2010 through September 2010. On approximately September 2010 Mr. Doman
10 attempted suicide by ingesting a bottle of Ambien and was hospitalized.

11 171. Decedent Freddie Collier was prescribed and used Chantix from approximately
12 September 2008 through October 26, 2008, when he committed suicide by shooting himself
13 to death.

14 172. Plaintiff Sybrena Malsom was prescribed and used Chantix from approximately
15 June 2008 through July 2008. On approximately July 2008 Ms. Malsom attempted suicide
16 by ingesting a bottle of sleeping pills and was hospitalized.

17 173. Plaintiff Arlene Kordick was prescribed and used Chantix for approximately one
18 month in late 2006. While taking Chantix Ms. Kordick attempted to shoot herself and was
19 hospitalized. Ms. Kordick took Chantix again in early 2010 and tried to shoot herself again.

20 174. Plaintiff Kathy S. Davis was prescribed and used Chantix from approximately
21 April 25, 2010 through May 25, 2010. On approximately June 2010 Ms. Davis suffered a
22 blackout/seizure while driving, she ran into a guideline and sustained injuries.

23 175. Plaintiff David A. Dubrey was prescribed and used Chantix from approximately
24 October 2010 through November 2, 2010. On November 2, 2010 Mr. Dubrey suffered a
25 blackout/seizure while driving and was in an accident and hospitalized.

26 176. Plaintiff Walter R. Emmerson was prescribed and used Chantix from
27 approximately December 2007 through January 2008. On approximately January 2008 Mr.
28 Emmerson was diagnosed with diabetes.

1 177. Plaintiff Bobby J. Hollowell was prescribed and used Chantix from
2 approximately May 2009 through July 2009. On approximately July 2009 Mr. Hollowell
3 experienced a blackout/seizure while working as a fire fighter; he fell off the fire engine and
4 was hospitalized.

5 178. Plaintiff Laura Hood was prescribed and used Chantix on March 4, 2007 through
6 March 10, 2007, when she suffered a seizure, went into cardiac arrest and was hospitalized.

7 179. Plaintiff Kandieann D. Klinedinst was prescribed and used Chantix from
8 approximately June 2008 through 2009. Shortly after beginning Chantix Mrs. Klinedinst
9 began experiencing blackouts/seizures, which in some instances resulted in physical injuries.
10 On approximately July 2008 Mrs. Klinedinst was diagnosed with a seizure disorder.

11 180. Plaintiff Wilbert Lano Jr. was prescribed and used Chantix from approximately
12 August 2009 through December 2009. On approximately December 2009 Mr. Lano was
13 diagnosed with diabetes.

14 181. Plaintiff Michael B. Liebelt was prescribed and used Chantix from approximately
15 February 2008 through September 2, 2008. On September 2, 2008, Mr. Liebelt suffered a
16 blackout/seizure that caused him to fall off the back of a truck and sustain injuries. Mr.
17 Liebelt is permanently disabled as a result of the fall.

18 182. Plaintiff Camrin J. McDonald was prescribed and used Chantix from
19 approximately June 2010 through August 7, 2010. On August 7, 2010 Mrs. McDonald
20 suffered a seizure that caused her to fall and sustain injuries. Mrs. McDonald had never
21 suffered a seizure prior to taking Chantix.

22 183. Plaintiff Jimmy Moffett was prescribed and used Chantix from approximately
23 June 6, 2009 through July 2, 2009. On August 7, 2009 Mr. Moffett began suffering seizures
24 and was hospitalized. Prior to taking Chantix Mr. Moffet had never experienced a seizure.

25 184. Plaintiff Kenneth Napier was prescribed and used Chantix intermittently from late
26 2006 through July 2009. In 2007 Mr. Napier was diagnosed with diabetes.

1 185. Plaintiff Aubrey Oxendine was prescribed and used Chantix for one day on
2 December 28, 2009. Following that first dose Mr. Oxendine suffered a seizure/stroke and
3 was hospitalized.

4 186. Plaintiff Charlotte Parker was prescribed and used Chantix from approximately
5 September 2010 through November 2010. On approximately November 2010 Ms. Parker
6 suffered a seizure that caused her to fall and sustain injuries. Ms. Parker had never suffered a
7 seizure prior to taking Chantix.

8 187. Plaintiff Sandy M. Prince was prescribed and used Chantix from approximately
9 September 2008 through November 2008. On approximately October 2008 Ms. Prince
10 began suffering from frequent seizures and blackouts. Ms. Prince had never suffered a
11 seizure or blackout prior to taking Chantix.

12 188. Decedent Laurie Riggle was prescribed and used Chantix from approximately
13 March 2009 through November 28, 2009 when she suffered a seizure that caused her to fall
14 and hit her head. Decedent was hospitalized for approximately six weeks, but she never
15 recovered. Mrs. Riggle passed away on January 7, 2010.

16 189. Plaintiff Rene Singleton was prescribed and used Chantix on July 7, 2010 through
17 October 8, 2010. On October 8, 2010 Ms. Singleton was diagnosed with diabetes.

18 190. Plaintiff Kay Slocum was prescribed and used Chantix from approximately
19 March 2008 through August 27, 2008. On August 27, 2008 Ms. Slocum was diagnosed with
20 diabetes.

21 191. Plaintiff Victoria Smallwood was prescribed and used Chantix on May 4, 2007
22 for approximately two months. While taking Chantix Mrs. Smallwood attempted suicide and
23 suffered blackouts.

24 192. Plaintiff Nancy T. Southerlin was prescribed and used Chantix from
25 approximately January 2010 through March 2010. On approximately March 2010 Ms.
26 Southerlin was diagnosed with diabetes.

1 193. Plaintiff Robyn K. Sweitzer was prescribed Chantix from approximately July 30,
2 2007 through August 10, 2007. On January 2, 2008 Mrs. Sweitzer was diagnosed with
3 diabetes.

4 194. Plaintiff Jessica Taisto was prescribed and used Chantix for approximately one
5 month in October 2009. At the end of October 2009 Mrs. Taisto was diagnosed with
6 diabetes.

7 195. Plaintiff Karen J. Walker was prescribed and used Chantix for one month in
8 October 2007. On approximately March 2008 Ms. Walker was diagnosed with diabetes.

9 196. Plaintiff Michael G. Weyrauch was prescribed and used Chantix from
10 approximately February 2007 through August 2007. On approximately March 2008 Mr.
11 Weyrauch was diagnosed with diabetes.

12 197. Plaintiff Michael Whealey was prescribed and used Chantix on August 28, 2010
13 through September 12, 2010. On September 12, 2010 Mr. Whealey suffered a
14 blackout/seizure while driving and crashed, injuring himself and two friends. Mr. Whealey
15 had never suffered a blackout/seizure prior to taking Chantix.

16 198. Plaintiff Shelia White was prescribed and used Chantix from approximately
17 January 2010 through April 2010. On approximately January 2010 Ms. White began
18 suffering blackouts. On approximately April 23, 2010 Ms. White suffered a heart attack. On
19 approximately July 12, 2010 Ms. White suffered a blackout/seizure while driving, crashed,
20 and was hospitalized.

21 199. Plaintiff Andre Young was prescribed and used Chantix from approximately April
22 2009 through September 2010. On approximately June 2010 Mr. Young suffered a blackout
23 while waiting at the bus stop and was hospitalized.

24 GENERAL FACTS

25 A. Design, Approval, and Promotion of CHANTIX

26 200. CHANTIX, known generically as varenicline, is indicated for use as an aid to
27 quit smoking.
28

1 201. The Defendant requested and received a six-month "accelerated review" and/or
2 "priority review" by the Federal Food and Drug Administration ("FDA") for CHANTIX. On
3 or about May 11, 2006 Chantix was approved by the FDA.

4 202. On or about August 1, 2006 Chantix was made available on the market for sale.

5 203. After gaining FDA approval, Defendant embarked upon a massive promotional
6 campaign urging patients to use CHANTIX as a smoking cessation aid. Ian Read, Pfizer
7 worldwide president of pharmaceutical operations, reported that the launch of CHANTIX
8 was the biggest in Pfizer's history.

9 204. CHANTIX became Pfizer's fastest-growing product, as major media spending on
10 CHANTIX totaled \$55 million in 2007 and nearly \$60 million in the first 11 months of
11 2008. In 2006, the year CHANTIX was launched, Pfizer reportedly spent \$4.3 million in
12 medical journal advertisements alone.

13 205. Consumer watchdog groups have criticized Pfizer's "sneaky" advertising
14 of CHANTIX. While most companies shrank their unbranded "education" campaign budgets
15 as unbranded advertising declined from 2006 to 2008, Pfizer increased its "education" budget
16 and launched unbranded advertising called My Time to Quit in December 2006. The
17 unbranded "help-seeking" advertising does not mention CHANTIX by name so it does not
18 mention side effects associated with CHANTIX. But, it does encourage people to call a
19 phone number or visit www.mytimetoquit.com, where they can click through to "learn about
20 a prescription treatment option" to quit smoking – that click leads them to the CHANTIX
21 website.

22 206. Additionally, Defendant sponsored continuing medical education courses for
23 doctors that showcase CHANTIX as a safe and effective smoking cessation medication, but
24 course materials downplay or omit information about the serious adverse events of
25 CHANTIX and about the types of people excluded from the clinical trials. Harvard Medical
26 school professor emeritus and former editor of the New England Journal of Medicine Dr.
27 Arnold Relman calls this "unethical, and it is not in the public interest because it is going to
28 bias doctors to use certain drugs."

87/01/11

1 207. Upon information and belief, Defendant similarly sponsored free smoking
2 cessation presentations for consumers that also downplayed or omitted information about the
3 serious adverse events of Chantix.

4 **B. The Mechanism of Action**

5 208. Nicotine in cigarettes activates $\alpha 4 \beta 2$ nicotinic acetylcholine subtype receptors in
6 the brain. This triggers a large, immediate release of the neurotransmitter dopamine in the
7 brain's mesolimbic pathway, an area of the brain associated with pleasure, reward-seeking
8 behavior, and reinforcement systems. The spike in dopamine to this "reward center" of the
9 brain accounts for the pleasurable effects of smoking. When the dopamine levels drop after
10 smoking a cigarette, feelings of craving and nicotine withdrawal follow.

11 209. CHANTIX is a selective nicotinic-acetylcholine receptor partial agonist,
12 designed to substitute for nicotine and reduce the severity of a smoker's nicotine craving, the
13 withdrawal symptoms from nicotine addiction and the psychological rewards with smoking.

14 210. CHANTIX employs a somewhat unique and/or novel mechanism of action that is
15 intended to operate as a both an "agonist" to reduce nicotine craving and withdrawal
16 symptoms and "antagonist" to decrease nicotine craving and reduce the psychological
17 rewards associated with smoking.

18 211. CHANTIX employs a somewhat unique and/or novel mechanism of action that is
19 intended to operate as a both an "agonist" to reduce nicotine craving and withdrawal
20 symptoms and "antagonist" to decrease nicotine craving and reduce the psychological
21 rewards associated with smoking.

22 212. By binding with high affinity to and partially activating the $\alpha 4 \beta 2$ nicotinic
23 acetylcholine subtype receptor - the same one as nicotine activates - the drug causes a
24 constant release of dopamine. Because CHANTIX causes the release of some dopamine,
25 CHANTIX is intended to ease the withdrawal symptoms experienced when not smoking.
26 Because CHANTIX additionally purports to block nicotine from activating the
27 $\alpha 4 \beta 2$ receptor and thus preventing the dopamine spike a smoker normally
28 feels, CHANTIX purportedly reduces the rewarding or addictive quality of smoking.

1 **C. Failure to Adequately Study CHANTIX**

2 213. However, Defendants negligently and/or intentionally failed to properly, fully
3 and/or thoroughly study, test, evaluate, and/or examine CHANTIX's mechanism of action
4 and effects.

5 214. Defendant failed to adequately study CHANTIX to determine the risk of serious
6 injury and/or death associated with its use, including

7 a. Intentionally excluding certain patients and populations from clinical
8 trials;

9 b. Intentionally ignoring any proper evaluation of depression,
10 aggression, suicide, suicidal ideation, suicidal thoughts, suicidal tendencies, and other
11 injuries mentioned above like diabetes, etc.;

12 c. Failing to determine what other effects CHANTIX has on other
13 receptors in the human brain and body; and

14 d. Intentionally failing to include appropriate measures of adverse events in
15 clinical trials.

16 215. For example, while studies suggest that nearly half of all cigarettes are
17 smoked by people with mental illness, Defendant admitted that "[p]atients with serious
18 psychiatric illness such as schizophrenia, bipolar disorder, and major depressive disorder did
19 not participate in the controlled clinical trial program."

20 216. Dr. Daniel Seidman, the director of Smoking Cessation Services at Columbia
21 University Medical Center, is reported to have said: "When they tested the drug, the sample
22 they chose simply isn't representative of the people they're targeting. . . . By excluding
23 drinkers, you're artificially inflating your results, potentially. I run a clinic, and two out of
24 three [smokers] I see have a psychiatric or mood problem. None of these people would have
25 been part of the original trials."

26 217. Because of Defendant's systematic exclusion of patients with a history of
27 psychiatric disorders, the safety of Chantix in smokers with psychiatric illness was never
28 established. But, defendant did not mention this in its labeling until January 2008.

97/01/11

1 **D. CHANTIX Causes Serious Injury and Death**

2 218. Defendant knew or should have known that CHANTIX increases the risk of
3 causing serious injuries and death including suicide and attempted suicide and other injuries
4 mentioned herein.

5 ***Clinical Trials Reveal Serious Risk***

6 219. Several clinical trials demonstrate the increased risk of serious injury and death
7 associated with CHANTIX and provided Defendant with epidemiological evidence that
8 CHANTIX causes adverse psychiatric disorders and other injurious side effects.

9 220. From a 52-week, double-blind, placebo-controlled study conducted between
10 October 2003 and March 2005, Defendant discovered that 20 out of 251 patients on
11 CHANTIX experienced "psychiatric disorders," while only 3 patients out of 126 on a
12 placebo experienced those disorders. The relative risk that CHANTIX patients would suffer
13 psychiatric disorders was more than three-fold that of patients on placebo, a relative risk that
14 was significant both clinically and statistically. This fact was not disclosed in the
15 publication of the study, on which Kathryn Williams, then employed by Pfizer
16 Global Research and Development, was the lead author.

17 221. "Severe adverse events were experienced by 9.8% of the varenicline group and
18 7.3% of the NRT (nicotine patch) group."12 Further, "[t]hree participants experienced
19 serious adverse events during the non-treatment follow-up phase. . . . [One study participant]
20 A woman in the varenicline group experienced suicidal ideation which resulted in
21 hospitalization 11 days after completing the varenicline treatment. (She had no previously
22 diagnosed mental and/or psychological disorder.) The study investigator considered this case
23 to be attributable to the study drug."

24 222. On July 5, 2006, JAMA published the results of a Pfizer-sponsored study that had
25 been completed over two years earlier in February 2004, in which one of the subjects
26 participating in the study committed suicide.

27 223. On July 5, 2006, JAMA also published the results of a randomized, controlled
28 trial completed more than a year earlier in March 2005, which reported cases of serious

1 adverse events associated with varenicline including acute psychosis, emotional lability,
2 insomnia, and abnormal dreams.

3 224. PFIZER commissioned Dr. John Hughes to write an "independent expert opinion
4 paper" on the association of smoking, smoking cessation, and cessation medications with
5 suicide. Dr. Hughes reports that about one year after submitting the paper to PFIZER, he
6 converted the report into an article and submitted the article for medical journal publication
7 in February 2008. The published article, which Dr. Hughes notes "retains significant overlap
8 with the expert opinion paper," concluded, inter alia, that the three large studies of smoking
9 abstinence found no evidence supporting the theory that stopping smoking leads to increased
10 suicidality; that an association between Chantix and suicidality existed and required further
11 study; and that even a small risk of suicide with smoking cessation medications "is
12 problematic given that medications are not essential to smoking cessation, i.e., many smokers
13 are able to quit without medication."

14 ***Adverse Event and Case Reports Link CHANTIX with Serious Risk***

15 225. Early reports of adverse events provided the Defendants with additional evidence
16 that CHANTIX causes adverse psychiatric disorders.

17 226. According to a 2006 report by the European Medical Agency (EMA), a 61-
18 year-old man committed suicide less than a month after he finished taking CHANTIX. The
19 EMA's report found CHANTIX had six times the number of serious adverse reactions as
20 the smoking cessation drug Zyban® (bupropion).

21 227. In the 4th quarter of 2007, varenicline accounted for 988 serious injuries in the
22 U.S. reported to the FDA, more than any other individual drug in this time period. By
23 comparison, the FDA received a median of 5 reports of serious injury for 769 different drugs
24 in the 4th quarter. Only 35 drugs accounted for 100 or more reports.

25 228. From May 2006 through December 2007, the FDA received 227 domestic reports
26 of suicidal acts, thoughts or behaviors, 397 cases of possible psychosis and 525 reports of
27 hostility or aggression. These totals included 28 cases of suicide and 41 mentions of
28

1 homicidal ideation, 60 cases of paranoia and 55 cases of hallucination. The categories were
2 not mutually exclusive.

3 229. In November 2007, the FDA announced the results of its preliminary assessment
4 of CHANTIX. The FDA specifically highlighted the number of reports noting the
5 association between suicide and attempted suicide "within days to weeks of initiating
6 Chantix treatment."

7 230. Many of the cases received and reviewed by the FDA were reported for patients
8 without any prior history of psychiatric illness.

9 231. By July 1, 2009, the FDA reported that CHANTIX accounted for 4,762 reports of
10 serious psychiatric events since CHANTIX's 2006 approval. Of these, 188 reported
11 attempted suicide and 98 reported completed suicide.

12 232. The adverse drug event reports for varenicline describe other kinds of serious
13 harm for which no warnings now exist. Among the most prominent are:

14 a. *Accidents and injuries.* A total of 173 serious events described accidental
15 injury, including 28 road traffic accidents and 77 falls, some leading to fractures of rib, facial
16 bones, hand, ankle, spine, and lower limbs. In these cases a variety of potential causes were
17 identified, including loss of consciousness, mental confusion, dizziness and muscle
18 spasms.

19 b. *Vision disturbances.* At least 148 reports contained medical terms
20 indicating vision disturbances, including 68 cases described as blurred vision and 26 terms
21 indicating transient or other forms of blindness. This reported effect could also describe a
22 mechanism that could or did contribute to accidents and injuries.

23 c. *Heart rhythm disturbances.* The FDA received 224 domestic reports
24 classified as potential cardiac rhythm disturbances. This category, however, was dominated
25 by reports of sudden loss of consciousness, an event that could also have non-cardiac causes.
26 However, this category also included smaller numbers of cardiac arrests and identifiable
27 abnormal cardiac rhythms.
28

1 d. *Seizures and abnormal muscle spasms or movements.* Serious reported
2 events included 86 cases of convulsions (seizures), 372 reports of a wide variety of
3 movement disorders, including tremors, muscle spasms, twitching, tics, drooling, and motor
4 hyperactivity. The extent to which these problems were resolved with a reduced dose or by
5 halting treatment could not be determined from the data.

6 c. *Diabetes.* The FDA has received 544 reports suggesting varenicline may
7 be related to a loss of glycemic control. This category included many cases of weight loss or
8 gain that could have alternative causes, but also identified numerous cases of symptoms and
9 laboratory tests consistent with new onset diabetes.

10 233. Numerous case reports have also been published in the medical literature linking
11 CHANTIX with neuropsychiatric symptoms and behavioral changes, especially among those
12 with some preexisting psychiatric history.

13 234. Despite its repeated denials of a relationship between neuropsychiatric side
14 effects including behavioral changes and CHANTIX use, described further herein, PFIZER
15 admitted to Congress in August 2008 that prior to November 20, 2007, Pfizer had actually
16 received 322 reports of suicidal ideation, 37 reports of suicide attempt/suicidal behavior and
17 16 reports of a completed suicide.

18 E. Poor Efficacy of CHANTIX

19 235. Available data is inconclusive, but suggests the efficacy of CHANTIX appears to
20 be no better than placebo or the nicotine patch.

21 236. Given all available data, experts remain unconvinced of relative efficacy of
22 CHANTIX and continually express concern about the potential risks associated with using
23 the drug.

24 237. After reviewing three clinical trials, the experts noted: "Importantly, the majority
25 of participants in these three studies did not quit smoking even with varenicline."

26 Additionally, the authors reviewing the studies concluded "much research needs to be
27 conducted to establish the effectiveness of varenicline" Although the efficacy evaluation
28 was inconclusive, the greater risks associated with CHANTIX were clear. "First the adverse

1 effect profile of varenicline . . . reported a rate significantly higher than with either bupropion
 2 or placebo." (See Kleges et al., Varenicline for Cessation: Definite Promise But No Panacea,
 3 296 JAMA 94-95 (July 5, 2006).

4 238. The results of a Pfizer-funded head-to-head open label trial between CHANTIX
 5 and the nicotine patch were published on February 8, 2008. The results of the study
 6 demonstrated only slightly better efficacy associated with CHANTIX compared to the
 7 nicotine patch. (After 24 weeks, the efficacy for varenicline was reported to be 32.4%
 8 compared to the nicotine patch at 27.3%, but this was not considered a statistically significant
 9 difference. After 52 weeks, the efficacy for varenicline was reported to be 26.1% compared
 10 to the nicotine patch at 20.3%).

11 **F. Pfizer's Repeated Denials of the Risks of CHANTIX**

12 239. PFIZER has repeatedly denied the mounting scientific evidence linking
 13 CHANTIX to serious injury and death including certain psychiatric side effects and adverse
 14 events such as suicide, attempted suicide, and erratic and aggressive behavior and other
 15 injuries mentioned herein.

16 240. Despite its early internal knowledge that CHANTIX causes neuropsychological
 17 side effects, Defendants have diluted its label and prescribing-information by minimizing and
 18 questioning the validity of post-marketing reports and epidemiological studies that reported
 19 an association between CHANTIX and neuropsychiatric and other side effect.

20 241. In a press release dated January 18, 2008, Defendant stated: "A causal
 21 relationship between Chantix and these reported symptoms has not been established. In some
 22 reports, however, an association could not be excluded." But, PFIZER subtly shifts blame by
 23 suggesting nicotine withdrawal caused the reported changes in behavior.

24 242. Even after the FDA's February 1, 2008 Public Health Advisory and label change,
 25 Defendant continued to misrepresent its internal knowledge to various news agencies, like
 26 Reuters, Bloomberg, and the New Jersey Star Ledger, claiming that there is no causal
 27 relationship between CHANTIX and these behavioral changes. For example:
 28

1 a. Pfizer Medical Director Dr. Anjan Chatterjee: "In the controlled clinical
2 trial, these kinds of changes in behavior were extremely rare, occurring almost as often as the
3 placebo. Based on the tests, we have no evidence of any kind of consistent relationship
4 between Chantix and aggressive behavior."

5 243. In May 2008, the non-profit group Institute for Safe Medication Practices (ISMP)
6 warned that CHANTIX evoked "immediate safety concerns." The ISMP analyzed the FDA's
7 adverse event database from the fourth quarter of 2007 and found a "strong signal of multiple
8 safety problems" with CHANTIX and a "strong signal that the risks of varenicline treatment
9 have been underestimated."

10 244. Pfizer responded to the May 2008 ISMP report by embarking on a massive and
11 deceptive publicity campaign to downplay the connection between CHANTIX and
12 neuropsychiatric and other adverse events, to question the significance of the ISMP report,
13 and to insist that CHANTIX was properly labeled and safe for use. This organized campaign
14 included:

15 a. Running advertisements in major newspapers on May 29, 2008, in which
16 Pfizer Chief Medical Officer Joe Feczko described CHANTIX's risk-benefit profile.

17 b. Hosting invitation-only "roundtable" discussion events in the top five U.S.
18 markets for select health reporters and bloggers. According to reports, at the June 5, 2008,
19 roundtable in New York, Pfizer stressed the benefits of quitting smoking; maintained that the
20 then-current labeling was adequate; questioned the significance of the ISMP report because
21 the underlying data was all mostly already in the label, postmarketing reports are not the gold
22 standard of clinical research, and the report was not published in a peer-reviewed journal;
23 and associated smoking and/or quitting smoking with depression, irritability and suicide.

24 c. Reviving unbranded television commercials about the importance of
25 smoking cessation, which do not mention CHANTIX by name or CHANTIX's side effects,
26 but which do direct people to CHANTIX as a prescription treatment for smoking cessation.

27 d. Sending opinion pieces to newspapers to "address misperceptions and
28 misunderstanding about the safety and efficacy of CHANTIX." For example, Pfizer Chief

1 Medical Officer Dr. Feczko authored an opinion piece in the Wall Street Journal on June 11,
2 2008, complaining that the media coverage of the ISMP report lacked proper context
3 regarding smoking's dangers and detailing the limitations of the post-marketing adverse-
4 event reporting system.

5 e. Sending letters to healthcare professionals about CHANTIX's risk benefit
6 profile.

7 245. Pfizer defended CHANTIX's safety profile while questioning the reliability of the
8 May 2008 ISMP report by issuing a statement saying, in part:

9 246. Based on Pfizer and the FDA's continuous review of all available safety
10 information, including adverse event reports received to date, the current CHANTIX label
11 accurately reflects the product's efficacy and safety profile. . . . We understand that the
12 [ISMP's] report was based solely on a review of post-marketing adverse event reporting data.
13 It is important to understand the limitations of spontaneous adverse event reporting. Often
14 these reports lack sufficient medical information and/or have confounding factors that
15 prevent a meaningful assessment of causality.

16 247. Pfizer representatives attempted to divert attention from safety issues contained in
17 the report by discussing the benefits of quitting smoking, questioning the reliability of the
18 report's methods, suggesting that the reported neuropsychiatric problems were caused by
19 nicotine withdrawal or even smoking itself, and again misrepresenting its internal knowledge
20 by insisting that the reported behavioral changes were not caused by CHANTIX and that
21 CHANTIX was safe.

22 248. The "Dear Doctor" letter that Defendant sent out in May 2008 was similarly
23 deceptive and untimely. The letter purports to provide specific guidance to physicians and
24 patients to help mitigate the health risks of "potential" neuropsychiatric adverse events
25 associated with CHANTIX, but still "realize the full benefits of Chantix." This letter urges
26 doctors to continue using CHANTIX, noting that "Chantix is an important treatment option
27 to help smokers quit, with over 5 million prescriptions written in the United State since its
28 launch," that "smoking is the leading preventable cause of disease and premature death in the

1 United States" and that "there are few things that provide greater health benefits than quitting
2 smoking." This letter diluted previous information and Defendant's internal knowledge
3 showing CHANTIX was responsible for and caused serious adverse events.

4 249. In October 2008, after the ISMP issued another report about the continued
5 "striking" safety signals after CHANTIX had more serious injury reports than any other
6 prescription drugs for a second quarter, Defendant again downplayed the report and
7 deceptively asserted a false safety profile of CHANTIX:

8 a. Pfizer statement: "Based on [the] totality of data, we stand by the efficacy
9 and safety of Chantix when used as directed. Chantix labeling accurately reflects its efficacy
10 and safety event reports and clinical trial data."

11 b. Pfizer statement: "Based on [the] totality of data, we stand by the efficacy
12 and safety of Chantix when used as directed. Chantix labeling accurately reflects its efficacy
13 and safety event reports and clinical trial data."

14 **G. PFIZER'S Failure to Warn and Inadequate Warnings**

15 250. Though Defendants knew or should have known that CHANTIX posed a risk for
16 causing serious injury and/or death, the CHANTIX label and package insert in use when
17 Plaintiffs' physicians prescribed the drug did not provide Plaintiffs or Plaintiffs' physicians
18 with an adequate warning about the increased risk of serious injury and/or death from
19 CHANTIX.

20 251. Pursuant to federal regulations, prescription drug labels must "contain a summary
21 of the essential scientific information needed for safe and effective use." The label "shall be
22 informative and accurate and neither promotional in tone nor false and misleading" See
23 generally 21 C.F.R. § 201.56.

24 252. Specific information must go in certain label sections:

25 a. A Contraindications section "shall describe those situations in which the drug
26 should not be used because the risk of use clearly outweighs any possible benefit. These
27 situations include administration of the drug to patients known to have a hypersensitivity
28 to it. . ." 21 C.F.R. § 201.57(d).

1 b. A Warnings section "shall describe serious adverse reactions and potential safety
2 hazards, limitations in use imposed by them, and steps that should be taken if they occur.
3 The labeling shall be revised to include a warning as soon as there is reasonable evidence
4 of an association of a serious hazard with a drug; a causal relationship need not have been
5 proved." 21 C.F.R. § 201.57(e).

6 c. A Precautions section "shall contain information regarding any special care to be
7 exercised by the practitioner for safe and effective use of the drug." 21 C.F.R. §
8 201.57(f)(1).

9 d. An Adverse Reactions section would include that which "is an undesirable effect,
10 reasonably associated with the use of the drug that may occur as part of the
11 pharmacological action of the drug or may be unpredictable in its occurrence." 21 C.F.R.
12 § 201.57(g). But, "any potentially fatal adverse reaction" must be contained in either the
13 Warnings or the Contraindications section. *Id.*

14 253. The information contained in the CHANTIX product label and package insert in
15 use when Plaintiffs were prescribed the drug is insufficient for many reasons, including but
16 not limited to the following: a) the label fails to explicitly warn of increased risk for serious
17 injury and/or death; and, b) the label fails to reference the severity and frequency of such
18 serious injuries; and/or c) the label fails to provide adequate information advising physicians
19 or consumers of appropriate action if certain adverse events are experienced.

20 254. Prior to November 20, 2007, the CHANTIX label did not adequately disclose its
21 link with neuropsychiatric adverse effects, including but not limited to depression, agitation,
22 hostility, rage or suicidal behavior.

23 255. Though FDA regulations were promulgated precisely to allow drug manufacturers
24 to quickly strengthen label warnings with new evidence of side effects and allow Defendant
25 to unilaterally strengthen warning labels without regulatory pre-approval pursuant to 21 CFR
26 § 314.70(6)(iii)(A), Defendant did not change the CHANTIX label until November 2007.

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1 256. The November 2007 label change did not adequately warn about the
2 neuropsychiatric and other serious side effects alleged herein, and Defendant consistently
3 minimized and diluted CHANTIX's association with these side effects.

4 257. On November 20, 2007, the FDA issued an Early Communication About an
5 Ongoing Safety Review of CHANTIX, stating that "[a] preliminary assessment reveals that
6 many of the cases reflect new-onset of depressed mood, suicidal ideation, and changes in
7 emotion and behavior within days to weeks of initiating Chantix treatment." While noting
8 that smoking cessation itself is associated with nicotine withdrawal symptoms and with the
9 exacerbation of underlying psychiatric illness, the FDA explained that not all patients with
10 reported adverse events had pre-existing psychiatric illness and not all had discontinued
11 smoking.

12 258. Concurrent with the FDA Early Communication, Defendant modified the
13 CHANTIX label and prescribing information in November 2007 by adding a short paragraph
14 at the end of the ADVERSE REACTIONS section, on page 16 out of 22 pages, entitled
15 "Post-Marketing Experience" that stated "depressed mood, agitation, changes in behavior,
16 suicidal ideation and suicide" were reported as adverse reactions to CHANTIX use. The
17 information was further diluted by a statement that "[s]moking cessation with or without
18 treatment is associated with nicotine withdrawal symptoms and the exacerbation of
19 underlying psychiatric illness."

20 259. While the November 2007 label change noted that not all patients with these
21 reported adverse events "had known pre-existing psychiatric illness and not all had
22 discontinued smoking," the new label also deceptively claimed that the role of CHANTIX in
23 these reports remained unknown. The label change also added that "[p]atients should be
24 advised to use caution driving or operating machinery until they know how quitting smoking
25 with varenicline may affect them."

26 260. Defendant changed the CHANTIX label again in January 2008 to reflect what the
27 FDA called "significant new risk information" related to CHANTIX. Again, this label
28 change remained inadequate, and Defendant should have made it much sooner.

1 261. The January 2008 change added a WARNINGS section to the label, which had
2 not previously existed, with a paragraph on "Neuropsychiatric Symptoms" that stated:

3 262. Serious neuropsychiatric symptoms have occurred in patients being treated with
4 Chantix. Some cases may have been complicated by the symptoms of nicotine withdrawal in
5 patients who stopped smoking; however, some of these symptoms have occurred in patients
6 who continued to smoke. All patients being treated with Chantix should be observed for
7 neuropsychiatric symptoms including changes in behavior, agitation, depressed mood,
8 suicidal ideation and suicidal behavior. These symptoms, as well as worsening of pre-
9 existing psychiatric illness, have been reported in patients attempting to quit smoking while
10 taking Chantix in the post-marketing experience. Patients with serious psychiatric illness
11 such as schizophrenia, bipolar disorder, and major depressive disorder did not participate in
12 the premarketing studies of Chantix and the safety and efficacy of Chantix in such patients
13 has not been established. Patients attempting to quit smoking with Chantix and their families
14 and caregivers should be alerted about the need to monitor for these symptoms and to report
15 such symptoms immediately to the patient's healthcare provider.

16 263. The January 2008 label also added a bullet point to the Information for Patients
17 portion of the PRECAUTIONS section of the label, which stated that:

18 264. Patients should be informed that quitting smoking, with or without Chantix, may
19 be associated with nicotine withdrawal symptoms (depression, agitation) or exacerbation of
20 pre-existing psychiatric illness. Some patients have experienced depressed mood, agitation,
21 changes in behavior, suicidal ideation and suicide when attempting to quit smoking while
22 taking Chantix. They should be urged to report any such symptoms to their health care
23 providers, and to reveal any history of psychiatric illness prior to initiating treatment.

24 265. Contemporaneous with this label change, the FDA issued a Public Health
25 Advisory on February 1, 2008, alerting health care providers, patients, and caregivers to new
26 safety warnings, stating that it is "increasingly likely" that Chantix is associated with serious
27 adverse events, including suicide.
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1 266. At a press briefing in February 2008, Dr. Bob Rappaport, the FDA's director of
2 the Division of Anesthesia, Analgesia, and Rheumatology Products stated that: "We've
3 become increasingly concerned as there are a number of compelling cases that truly look as if
4 they are the result of exposure to the drug and not to other causes. We've seen cases of
5 patients who had a history of depression, and we have seen cases of people who had no
6 history of depression. These events are occurring sporadically, and at times in people who
7 had no history of psychiatric disease or changes in behavior in the past."

8 267. Relying upon newly-enacted statutory authority, in May 2008, the FDA informed
9 Defendant that it was required to submit Risk Evaluation and Mitigation Strategies (REMS)
10 for CHANTIX. The FDA may require REMS when it becomes aware of new safety
11 information of which it had not been made aware at the time of approval and determines that
12 such a strategy is necessary to ensure that the benefits of the drug outweigh the risks.

13 268. Changes were made again to the CHANTIX label in May 2008. In the
14 WARNINGS section, a bolded new paragraph replaced the last sentence of the previous
15 WARNING paragraph and stated:

16 269. Advise patients and caregivers that the patient should stop taking Chantix and
17 contact a healthcare provider immediately if agitation, depressed mood, or changes in
18 behavior that are not typical for the patient are observed, or if the patient develops suicidal
19 ideation or suicidal behavior.

20 270. In May 2008, the Information for Patients portion of the PRECAUTIONS section
21 was also expanded, noting that patients should discontinue Chantix if certain
22 neuropsychiatric or behavioral changes occur, and that "patients should be encouraged to
23 reveal any history of psychiatric illness prior to initiating treatment." This label change
24 remained inadequate, and Pfizer should have made it much earlier.

25 271. In May 2008, the FDA also approved the addition of a Medication Guide for
26 CHANTIX to replace the previous Patient Package Insert. This Medication Guide noted that
27 "the most important information [patients] should know about Chantix" is that:
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272. Some patients have had changes in behavior, agitation, depressed mood, and suicidal thoughts or actions while using Chantix to help them quit smoking. Some people had these symptoms when they began taking Chantix, and others developed them after several weeks of treatment or after stopping Chantix. If either you, your family or caregiver notice agitation, depressed mood, or changes in behavior that are not typical for you, or if you develop suicidal thoughts or actions, stop taking Chantix and call your doctor right away. When you try to quit smoking, with or without Chantix, you may have symptoms that may be due to nicotine withdrawal, including urge to smoke, depressed mood, trouble sleeping, irritability, frustration, anger, feeling anxious, difficulty concentrating, restlessness, decreased heart rate, and increased appetite or weight gain. Sometimes quitting smoking can lead to worsening of mental health problems that you already have, such as depression. Before taking Chantix, tell your doctor if you have ever had depression or other mental health problems. You should also tell your doctor about any symptoms you had during other times you tried to quit smoking, with or without Chantix.

273. The inadequate and untimely label changes of November 2007 and January 2008 did not appear in the Physician's Desk Reference (PDR) until the June 2008 "Supplement A" to the PDR was published, the inadequate and untimely label changes of May 2008 did not appear in the PDR until the 2009 update was published in about December 2008.

274. On July 1, 2009, the FDA asked Defendant to have a revised label available on its website within 10 days that added a new BLACK BOX WARNING, the most serious warning in the FDA's arsenal, to the CHANTIX label and that revised the WARNINGS and ADVERSE REACTIONS sections. The new black box warning, set out at the very top of the label, reads:

WARNING:

275. Serious neuropsychiatric events, including, but not limited to depression, suicidal ideation, suicide attempt and completed suicide have been reported in patients taking CHANTIX. Some reported cases may have been complicated by the symptoms of nicotine withdrawal in patients who stopped smoking. Depressed mood may be a symptom of nicotine

1 withdrawal. Depression, rarely including suicidal ideation, has been reported in smokers
2 undergoing a smoking cessation attempt without medication. However, some of these
3 symptoms have occurred in patients taking CHANTIX who continued to smoke.

4 276. All patients being treated with CHANTIX should be observed for
5 neuropsychiatric symptoms including changes in behavior, hostility, agitation, depressed
6 mood, and suicide-related events, including ideation, behavior, and attempted suicide. These
7 symptoms, as well as worsening of pre-existing psychiatric illness and completed suicide
8 have been reported in some patients attempting to quit smoking while taking CHANTIX in
9 the post-marketing experience. When symptoms were reported, most were during CHANTIX
10 treatment, but some were following discontinuation of CHANTIX therapy.

11 277. These events have occurred in patients with and without preexisting psychiatric
12 disease. Patients with serious psychiatric illness such as schizophrenia, bipolar disorder, and
13 major depressive disorder did not participate in the pre-marketing studies of CHANTIX and
14 the safety and efficacy of CHANTIX in such patients has not been established.

15 278. Advise patients and caregivers that the patient should stop taking CHANTIX and
16 contact a healthcare provider immediately if agitation, hostility, depressed mood, or changes
17 in behavior or thinking that are not typical for the patient are observed, or if the patient
18 develops suicidal ideation or suicidal behavior. In many post-marketing cases, resolution of
19 symptoms after discontinuation of CHANTIX was reported, although in some cases the
20 symptoms persisted; therefore, ongoing monitoring and supportive care should be provided
21 until symptoms resolve.

22 279. The risks of CHANTIX should be weighed against the benefits of its use.
23 CHANTIX has been demonstrated to increase the likelihood of abstinence from smoking for
24 as long as one year compared to treatment with placebo. The health benefits of quitting
25 smoking are immediate and substantial.

26 280. (See WARNINGS/Neuropsychiatric Symptoms and Suicidally,
27 PRECAUTIONS/Information for Patients, and ADVERSE REACTIONS/Post-Marketing
28 Experience)

1 281. In addition to the boxed warning, the information about driving or operating
 2 machinery in the PRECAUTIONS section was expanded to note the "post-marketing reports
 3 of traffic accidents, near-miss incidents in traffic, or other accidental injuries in patients
 4 taking CHANTIX" and that some "patients reported somnolence, dizziness, loss of
 5 consciousness or difficulty concentrating that resulted in impairment, or concern about
 6 potential impairment, in driving or operating machinery."

7 282. And, new information was added to the post-marketing portion of the ADVERSE
 8 REACTIONS section related to allergic reactions, such as angioedema and serious life-
 9 threatening skin reactions, like Stevens - Johnson syndrome and Erytema Multiforme.

10 CAUSES OF ACTION

11 COUNT 1: 12 NEGLIGENCE

13 283. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if set
 14 forth in full in this cause of action.

15 284. Defendants owed Plaintiffs a duty to exercise reasonable care when designing,
 16 testing, manufacturing, labeling, marketing, advertising, promoting, distributing, and/or
 17 selling CHANTIX.

18 285. At all relevant times to this action, Defendants owed a duty to properly warn
 19 Plaintiffs, physicians, consumers, and the public of the risks, dangers and adverse side effects
 20 of CHANTIX, including the increased risk of serious injury and death, when the drug was
 21 used as intended or in a way that Defendants could reasonably have anticipated.

22 286. Defendants breached their duty by failing to exercise ordinary care in the
 23 preparation, design, research, testing, development, manufacturing, inspection, labeling,
 24 marketing, promotion, advertising and selling of CHANTIX, as set forth below.

25 287. Defendants failed to exercise due care under the circumstances and therefore
 26 breached this duty in numerous ways, including the following:

- 27 a. failing to research and test CHANTIX properly and thoroughly before releasing
 28 the drug to the market;
- b. failing to analyze properly and thoroughly the data resulting from the pre-
 marketing tests of CHANTIX;

1 c. failing to report to the FDA, the medical community, and the general public
2 those data resulting from pre- and postmarketing tests of CHANTIX which indicated serious
3 risks associated with its use;

4 d. failing to conduct adequate post-market monitoring and surveillance of
5 CHANTIX;

6 e. failing to conduct adequate analysis of adverse event reports;

7 f. designing, manufacturing, marketing, promoting, advertising, distributing, and
8 selling CHANTIX to physicians and consumers, including Plaintiffs, without an adequate
9 warning of the significant and dangerous risks of CHANTIX and without proper instructions
10 to avoid the harm that could foreseeably occur as a result of using the drug;

11 g. failing to exercise due care when advertising and promoting CHANTIX;

12 h. negligently continuing to manufacture, market, advertise, and distribute
13 CHANTIX after Defendants knew or should have known of the risks of serious injury and/or
14 death associated with using the drug;

15 i. failing to use due care in the preparation and development of CHANTIX to
16 prevent the aforementioned risk of injuries to individuals when the drug was ingested;

17 j. failing to use due care in the design of CHANTIX to prevent the
18 aforementioned risk of injuries to individuals when the drug was ingested;

19 k. failing to conduct adequate pre-clinical testing and research to determine the
20 safety of CHANTIX;

21 l. failing to conduct adequate post-marketing surveillance and exposure studies to
22 determine the safety of CHANTIX, while Defendants knew or should have known that post-
23 marketing surveillance would be the only means to determine the relative risk of CHANTIX
24 for causing serious injury and/or death in the absence of clinical trials, and that such
25 surveillance would be necessary for a due diligence program that would alert Defendants of
26 the need to change the drug's warnings or to withdraw it from the market altogether;

27 m. failing to completely, accurately and in a timely fashion, disclose the results of
28 the pre-marketing testing and postmarketing surveillance and testing to Plaintiffs, Plaintiffs'
29 physicians, other consumers, the medical community, and the FDA;

30 n. failing to accompany CHANTIX with adequate and proper warnings regarding
31 all possible adverse side effects, including serious injury (e.g., suicide, attempted suicide,

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seizure, loss of consciousness, etc.) associated with the use of the same and instructions on ways to safely use CHANTIX to avoid injury;

o. failing to use due care in the manufacture, inspection, and labeling of CHANTIX to prevent the aforementioned risk of injuries to individuals who used the drug;

p. failing to use due care in the promotion of CHANTIX to prevent the aforementioned risk of injuries to individuals when the drug was ingested;

q. failing to use due care in the sale and marketing of CHANTIX to prevent the aforementioned risk of injuries to individuals when the drug was ingested;

r. failing to use due care in the selling of CHANTIX to prevent the aforementioned risk of injuries to individuals when the drug was ingested;

s. failing to provide adequate and accurate training and information to the sales representatives who sold the drug;

t. failing to provide adequate and accurate training and information to healthcare providers for the appropriate use of CHANTIX;

u. failing to conduct or fund research into the development of medications of this type which would pose the least risk of causing serious injury and death as alleged herein, into the early detection of persons who might be most susceptible to such reactions, and into the development of better remedies and treatment for those who experience these tragic adverse reactions;

v. failing to educate healthcare providers, patients, and the public about the safest use of the drug;

w. failing to give patients and healthcare providers adequate information to weigh the risks of serious injury and/or death for a given patient; and

x. being otherwise reckless, careless and/or negligent

288. Despite the fact that Defendants knew or should have known that CHANTIX increased the risk of serious injury and/or death, Defendants continued to promote and market CHANTIX to doctors and to consumers, including Plaintiffs, when safer and more effective methods of treatment were available.

289. As a direct and proximate consequence of Defendants' negligence, willful, wanton, and/or intentional acts, omissions, misrepresentations and/or otherwise culpable acts described herein, the Plaintiffs sustained injuries and damages including severe and

1 permanent physical injuries and/or death, severe emotional distress, economic losses and
2 other damages to be proved at trial.

3 290. WHEREFORE, Plaintiffs demand judgment against Defendants and seek
4 damages as detailed in the Global Prayer for Relief including: compensatory damages,
5 exemplary damages, and punitive damages, together with interest, the costs of suit and
6 attorneys' fees, and such other and further relief as this Court deems just and proper.

7 **COUNT II:**
8 **STRICT PRODUCTS LIABILITY-DESIGN DEFECT**

9 291. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if set
10 forth in full in this cause of action.

11 292. Defendants had a duty to provide adequate warnings and instructions for
12 CHANTIX, to use reasonable care to design a product that is not unreasonably dangerous to
13 users and to adequately test its product.

14 293. At all times relevant to this action, the Defendants researched, designed, tested,
15 manufactured, packaged, labeled, marketed, distributed, promoted, and sold CHANTIX,
16 placing the drug into the stream of commerce.

17 294. CHANTIX is defective in its design and/or formulation in that it is not reasonably
18 fit, suitable, or safe for its intended purpose and/or its foreseeable risks exceed the benefits
19 associated with its design and formulation.

20 295. CHANTIX was expected to reach, and did reach, users and/or consumers,
21 including Plaintiffs, without substantial change in the defective and unreasonably dangerous
22 condition in which it was manufactured and sold.

23 296. Plaintiffs used CHANTIX as prescribed and in the foreseeable manner normally
24 intended, recommended, promoted, and marketed by Defendants.

25 297. CHANTIX was unreasonably dangerous in that, as designed, it failed to perform
26 safely when used by ordinary consumers, including Plaintiffs, including when it was used as
27 intended and in a reasonably foreseeable manner.

28 298. CHANTIX was unreasonably dangerous and defective in design or formulation
for its intended use in that, when it left the hands of the manufacturers and/or supplier, it
posed a risk of serious neuropsychiatric and other serious injury which could have been

EXHIBIT A

1 reduced or avoided, inter alia, by the adoption of a feasible reasonable alternative design.

2 There were safer alternative methods and designs for the like product.

3 299. CHANTIX was insufficiently tested and caused harmful side effects that
4 outweighed any potential utility.

5 300. CHANTIX, as manufactured and supplied, was defective due to inadequate
6 warnings, and/or inadequate clinical trials, testing and study, and inadequate reporting
7 regarding the results of the clinical trials, testing and study.

8 301. CHANTIX as manufactured and supplied by the Defendants was defective due to
9 inadequate post-marketing warnings or instructions because, after Defendants knew or
10 should have known of the risk of injuries from use and/or ingestion and acquired additional
11 knowledge and information confirming the defective and dangerous nature of CHANTIX,
12 Defendants failed to provide adequate warnings to the medical community and the
13 consumers, to whom Defendant was directly marketing and advertising; and, further,
14 Defendants continued to affirmatively promote CHANTIX as safe and effective. Even when
15 PFIZER issued label changes, it immediately diluted those changes in its publicity
16 campaigns set forth above.

17 302. In light of the potential and actual risk of harm associated with the drug's use, a
18 reasonable person who had actual knowledge of this potential and actual risk of harm would
19 have concluded that CHANTIX should not have been marketed in that condition.

20 303. As a direct and proximate cause of the Defendants' defective design of
21 CHANTIX, including the lack of appropriate warnings, Plaintiffs were prescribed and used
22 the drug rather than less expensive alternative smoking cessation therapies with better
23 and/or similar efficacy. As a result, Plaintiffs suffered the damages and injuries described
24 herein, including severe and permanent physical injuries and/or death, severe emotional
25 distress, economic losses and other damages to be proved at trial.

26 304. By reason of the foregoing, Defendants are liable to Plaintiffs for damages as a
27 result of the defective design of the dangerous drug.

28 305. **WHEREFORE**, Plaintiffs demand judgment against Defendants and seek
damages as detailed in the Global Prayer for Relief including: compensatory damages,
exemplary damages, and punitive damages, together with interest, the costs of suit and
attorneys' fees, and such other and further relief as this Court deems just and proper.

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**COUNT III:
STRICT PRODUCT LIABILITY-FAILURE TO WARN**

306. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if set forth in full in this cause of action.

307. CHANTIX was defective and unreasonably dangerous when it left the possession of the Defendants in that it contained warnings insufficient to alert consumers, including Plaintiffs, of the dangerous risks and reactions associated with the subject product, including but not limited to the risk of serious injury and/or death, including but not limited to suicidal ideation, attempted suicide and suicide and other injuries mentioned herein like diabetes, etc.

308. Information given by Defendants to the medical community and to consumers concerning the safety and efficacy of CHANTIX, especially the information contained in the advertising and promotional materials, did not accurately reflect the serious and potentially fatal side effects.

309. Had adequate warnings and instructions been provided, Plaintiffs would not have been prescribed or taken CHANTIX, and would not have been at risk of the harmful side effects described herein.

310. Neither Plaintiffs, nor Plaintiffs' physicians knew, nor could they have learned through the exercise of reasonable care, the risks of serious injury and/or death associated with and/or caused by CHANTIX.

311. Defendants knew or had knowledge that the warnings that were given failed to properly warn of the increased risks of serious injury and/or death associated with and/or caused by CHANTIX.

312. Plaintiffs, individually and through their prescribing physicians, reasonably relied upon the skill, superior knowledge and judgment of the Defendants.

313. Defendants expected Plaintiffs, individually and through their prescribing physicians, to rely upon the information contained in the subject product's package insert and other advertising and promotional materials.

314. Defendants had a continuing duty to warn Plaintiffs and their prescribing physicians of the dangers associated with the subject product.

315. Safer alternatives were available that were just as effective and without the risks posed by CHANTIX.

1 316. As a direct and proximate consequence of the defective nature of CHANTIX and
 2 the Defendants' failure to provide adequate warnings about the dangers associated with the
 3 drug, the Plaintiffs sustained injuries and damages alleged herein including severe and
 4 permanent physical injuries and/or death, severe emotional distress, economic losses and
 other damages to be proved at trial.

5 317. By reason of the foregoing, Defendants are liable to Plaintiffs for damages as a
 6 result of its failure to warn and/or adequately warn the Plaintiffs and healthcare professionals
 7 about the increased risks of serious injury and death caused by Chantix.

8 318. WHEREFORE, Plaintiffs demand judgment against Defendants and seek
 9 damages as detailed in the Global Prayer for Relief including: compensatory damages,
 10 exemplary damages, and punitive damages, together with interest, the costs of suit and
 11 attorneys' fees, and such other and further relief as this Court deems just and proper.

12 **COUNT IV:**
BREACH OF EXPRESS WARRANTY

13 319. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if set
 14 forth in full in this cause of action.

15 320. Defendants expressly represented to Plaintiffs (and to other consumers and the
 16 medical community) that CHANTIX was safe, well-tolerated, efficacious and fit for its
 17 intended purposes, that it was of merchantable quality, that it did not produce any unwarmed-
 18 of dangerous side effects, and that it was adequately tested.

19 321. Defendants breached expressed warranties with respect to CHANTIX in the
 20 following particulars:

21 a. Defendants represented through their labeling, advertising, marketing materials,
 22 detail persons, seminar presentations, publications, notice letters, and regulatory submissions
 23 that CHANTIX was safe, and fraudulently withheld and concealed information about the
 24 substantial risks of serious injury and/or death associated with using CHANTIX;

25 b. Defendants represented that CHANTIX was as safe, and/or safer than other
 26 alternative medications and fraudulently concealed information that demonstrated that
 27 CHANTIX was not safer than alternatives available on the market; and
 28

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c. Defendants represented that CHANTIX was more efficacious than other alternative medications and fraudulently concealed information regarding the true efficacy of the drug.

322. CHANTIX does not conform to Defendants' express representations because it is not safe or well-tolerated since it has numerous and serious unwarned of side effects, causes severe and permanent injuries and was not adequately tested, and it is not much more, if at all, efficacious than alternative smoking cessation treatments and methods.

323. At all relevant times, CHANTIX did not perform as safely as an ordinary consumer would expect when used as intended or in a reasonably foreseeable manner.

324. Plaintiffs, Plaintiffs' physicians, other consumers, and the medical community relied upon Defendants' express warranties, resulting in Plaintiffs' ingestion of the drug.

325. As a direct and proximate consequence of Defendants' breach of its warranties, the Plaintiffs sustained injuries and damages alleged herein including severe and permanent physical injuries and/or death, severe emotional distress, economic losses and other damages to be proved at trial.

326. By reason of the foregoing, Defendants are liable to Plaintiffs for damages as a result of its breach of warranty.

327. WHEREFORE, Plaintiffs demand judgment against Defendants and seek damages as detailed in the Global Prayer for Relief including: compensatory damages, exemplary damages, and punitive damages, together with interest, the costs of suit and attorneys' fees, and such other and further relief as this Court deems just and proper.

COUNT V: BREACH OF IMPLIED WARRANTY

328. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if set forth in full in this cause of action.

329. At all relevant and material times, Defendants manufactured, distributed, advertised, promoted, and sold CHANTIX.

330. At all relevant times, Defendants intended that CHANTIX be used in the manner that Plaintiffs in fact used it.

331. Defendants impliedly warranted CHANTIX to be of merchantable quality, safe and fit for the use for which Defendants intended it, and Plaintiffs in fact used it.

339. Defendants breached the implied warranty that CHANTIX was of merchantable quality and fit for such use in violation of Cal. Comm. Code § 2314, et seq.

340. As a direct and proximate consequence of Defendants' breach of their warranty, the Plaintiffs sustained injuries and damages alleged herein including severe and permanent physical injuries and/or death, severe emotional distress, economic losses and other damages to be proved at trial.

341. By reason of the foregoing, Defendants are liable to Plaintiffs for damages as a result of its breach of implied warranty.

342. **WHEREFORE**, Plaintiffs demand judgment against Defendants and seek damages as detailed in the Global Prayer for Relief including: compensatory damages, exemplary damages, and punitive damages, together with interest, the costs of suit and attorneys' fees, and such other and further relief as this Court deems just and proper.

COUNT VI FRAUDULENT MISREPRESENTATION AND CONCEALMENT

343. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if set forth in full in this cause of action.

344. Defendant intentionally and fraudulently misrepresented to consumers and physicians, including Plaintiffs, Plaintiffs' physicians and the public in general, that CHANTIX had been tested and found to be safe, well-tolerated and/or more efficacious than alternative medications and/or methods of smoking cessation and that CHANTIX's benefits outweighed its risks when used as instructed, when, in fact, Defendant knew, or should have known, and fraudulently concealed that CHANTIX is dangerous to the well-being of patients and that the benefits of its use are far outweighed by the risks for Plaintiffs and many others.

345. At all relevant times, Defendant knew of the use for which CHANTIX was intended and expressly and/or impliedly warranted its drug was of merchantable quality and safe and fit for such use.

346. Defendant had sole access to material facts concerning the dangers and unreasonable risks of CHANTIX.

347. Defendant's superior knowledge and expertise, its relationship of trust and confidence with doctors and the public, its specific knowledge regarding the risks and dangers of CHANTIX and its intentional dissemination of promotional and marketing

1 information about CHANTIX for the purpose of maximizing its sales, each gave rise to the
2 affirmative duty to meaningfully disclose and provide all material information about the risks
3 and harms associated with the drug.

4 348. Defendant made false affirmative representations, omissions and/or fraudulently
5 concealed material adverse information regarding the dangers, risks, safety, benefits, utility
6 and effectiveness of CHANTIX in order to induce Plaintiffs, Plaintiffs' physicians, and
7 the public in general to rely upon such representations and to use CHANTIX. By failing to
8 disclose important safety and injury information and suppressing material facts about
9 CHANTIX to Plaintiffs, Plaintiffs' physicians and the public in general, Defendant further
10 led Plaintiffs and Plaintiffs' physicians to rely upon the safety of CHANTIX.

11 349. Defendant had a duty to disclose such information, arising from Defendant's
12 actions or making, marketing, promoting, labeling, distributing and selling pharmaceutical
13 products to Plaintiffs and others.

14 350. Defendant's false representations and concealments were fraudulently made, in
15 that CHANTIX in fact caused injury, was unsafe, and the benefits of its use were far
16 outweighed by the risk associated with use thereof.

17 351. Defendant committed acts of intentional misrepresentation and intentional
18 concealment by suppressing material facts relating to the dangers and substantial risks of
19 serious injuries and/or death associated with, and caused by, the use of CHANTIX.

20 352. Defendant made such false representations, omissions and concealments with the
21 intent or purpose that Plaintiffs and Plaintiffs' physicians would rely upon such
22 representations, leading to the use of CHANTIX by Plaintiffs.

23 353. Defendant made fraudulent affirmative misrepresentations and omissions and
24 fraudulent concealments of material facts regarding the safety and effectiveness of
25 CHANTIX and of the dangers and risks of injuries associated with CHANTIX, including:

26 a. Defendant fraudulently represented through its labeling, advertising,
27 marketing materials, detail persons, seminar presentations, publications,
28 notice letters, and regulatory submissions that CHANTIX had been adequately tested and
found to be safe and effective as an aid to smoking cessation, and fraudulently concealed
information about the substantial risks of serious injury and/or death associated with using
CHANTIX; and

b. Defendant fraudulently represented that CHANTIX was as safe and/or safer and/or more efficacious than other alternative smoking cessation therapies, and fraudulently concealed information that demonstrated that CHANTIX was not safer and/or more efficacious than alternatives available on the market.

354. Defendant knew, had reason to know, or should have known that these representations and actively concealed adverse information were false, and that CHANTIX had defects and was unreasonably dangerous. Yet, Defendant willfully, wantonly, and recklessly disregarded its obligation to provide truthful representations regarding the safety and risk of CHANTIX to consumers, including Plaintiffs, and to the medical community.

355. Defendant did not have adequate proof upon which to base such representations, and in fact, given Defendant's knowledge about CHANTIX's pharmacology and reported adverse events, Defendant knew or should have known that these representations, omissions and/or concealments were false and fraudulent. Specifically, Defendant knew of, possessed evidence and/or had reason to know that CHANTIX had defects and was unreasonably dangerous, causing neuropsychiatric side effects, including but not limited to depression, agitation, hostility, rage and suicidal thoughts and actions, as detailed herein.

356. Defendant's misrepresentations were made with the intent that physicians and patients, including Plaintiffs, would rely upon them and were made with the intent of defrauding and deceiving Plaintiffs, other consumers, and the medical community to induce and encourage the sale of CHANTIX.

357. Plaintiffs, Plaintiffs' physicians, and others, did rely upon and/or were induced by the misrepresentations, omissions and/or active concealment of the dangers of CHANTIX to the detriment of the Plaintiffs.

358. Defendant's fraudulent representations and concealments evince its callous, reckless, willful, and depraved indifference to the health, safety, and welfare of consumers, including Plaintiffs.

359. In selecting treatment, Plaintiffs' physicians and Plaintiffs relied on and were induced by Defendant's misrepresentations concerning the dangers of CHANTIX.

360. As detailed herein, Defendant made these fraudulent misrepresentations, omissions and concealments through statements and comments to the press, labeling,

1 advertising, marketing and promotion materials, detailers, seminar presentations,
2 publications, Dear Doctor letters and regulatory submissions.

3 361. Defendant's fraudulent conduct also included manipulating the medical
4 literature. Defendant shaped the medical literature about CHANTIX, such that the literature
5 cannot accurately reflect CHANTIX's dangers. Defendant wrongfully portrayed these
6 conclusions as objective scientific conclusions by medical scientists. For example, the
7 Pfizer-employee-authored report of a pre-clinical study discussed above did not disclose that
8 CHANTIX users suffered psychiatric disorders more than placebo users at a statistically and
9 clinically significant rate.

10 362. Defendant did not have adequate proof upon which to base such representations,
11 and in fact, given Defendant's knowledge about CHANTIX's pharmacology and reported
12 adverse events, Defendant knew or should have known that these representations,
13 omissions and/or concealments were false and fraudulent. Specifically, Defendant knew
14 of, possessed evidence and/or had reason to know that CHANTIX had defects and was
15 unreasonably dangerous, causing neuropsychiatric side effects, including but not limited to
16 depression, agitation, hostility, rage and suicidal thoughts and actions, as detailed herein.

17 363. Defendant's misrepresentations were made with the intent that physicians and
18 patients, including Plaintiffs, would rely upon them and were made with the intent of
19 defrauding and deceiving Plaintiffs, other consumers, and the medical community to induce
20 and encourage the sale of CHANTIX.

21 364. Plaintiffs, Plaintiffs' physicians, and others, did rely upon and/or were induced by
22 the misrepresentations, omissions and/or active concealment of the dangers of CHANTIX to
23 the detriment of the Plaintiffs.

24 365. Defendant's fraudulent representations and concealments evince its callous,
25 reckless, willful, and depraved indifference to the health, safety, and welfare of consumers,
26 including Plaintiffs.

27 366. In selecting treatment, Plaintiffs' physicians and Plaintiffs relied on and were
28 induced by Defendant's misrepresentations concerning the dangers of CHANTIX.

367. As detailed herein, Defendant made these fraudulent misrepresentations,
omissions and concealments through statements and comments to the press, labeling,

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1 advertising, marketing and promotion materials, detailers, seminar presentations,
2 publications, Dear Doctor letters and regulatory submissions.

3 368. Defendant's fraudulent conduct also included manipulating the medical
4 literature. Defendant shaped the medical literature about CHANTIX, such that the literature
5 cannot accurately reflect CHANTIX's dangers. Defendant wrongfully portrayed these
6 conclusions as objective scientific conclusions by medical scientists. For example, the
7 Pfizer-employee-authored report of a pre-clinical study discussed above did not disclose that
8 CHANTIX users suffered psychiatric disorders more than placebo users at a statistically and
9 clinically significant rate.

10 369. Plaintiffs and the treating medical community did not know that the
11 representations, omissions, and/or concealments made by Defendant were false and were
12 justified in reasonably relying upon Defendant's representations.

13 370. Had Defendant not fraudulently misrepresented and concealed such information,
14 Plaintiffs would not have ingested CHANTIX and suffered resulting harm.

15 371. Defendant made the aforesaid representations and concealments intentionally and
16 in the course of Defendant's business as designers, manufacturers, and distributors of
17 CHANTIX despite having no reasonable basis for the assertion that these representations
18 were true, without having accurate or sufficient information concerning the aforesaid
19 representations and/or knowing these representations were false. Defendant was aware that
20 without such information it could not accurately make the aforesaid representations.

21 372. At the time Defendant made the aforesaid representations and at the time
22 Plaintiffs received CHANTIX, Plaintiffs, Plaintiffs' physicians, and the public in general
23 reasonably believed them to be true. At the time that Plaintiffs received CHANTIX,
24 Defendant failed to adequately inform Plaintiffs and/or their prescribing doctors that
25 CHANTIX caused neuropsychiatric side effects, including but not limited to depression,
26 agitation, hostility, rage and suicidal thoughts and actions, despite Defendant being in
27 possession of such evidence. Plaintiffs received no adequate warnings, either written or
28 verbal, that CHANTIX caused these side effects, and relied on these omissions and
concealments.

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1 373. CHANTIX's label changes detailed herein should have come sooner and/or were
2 fraudulent and misleading because they downplayed any association and causal relationship,
3 in spite of Defendant's awareness of causation.

4 374. As a direct and proximate consequence of Defendant's fraudulent
5 misrepresentations, omissions and intentional concealment of material facts, upon which
6 Plaintiffs reasonably relied, Plaintiffs sustained injuries and damages alleged herein
7 including severe and permanent physical injuries and/or death, severe emotional distress,
8 economic losses and other damages to be proved at trial.

9 375. By reason of the foregoing, Defendant is liable to Plaintiffs for damages as a
10 result of its fraudulent misrepresentations, omissions and concealments.

11 376. WHEREFORE, Plaintiffs demand judgment against Defendant and seek
12 damages as detailed in the Global Prayer for Relief including: compensatory damages,
13 exemplary damages, and punitive damages, together with interest, the costs of suit and
14 attorneys' fees, and such other and further relief as this Court deems just and proper.

15 COUNT VII:

16 NEGLIGENT MISREPRESENTATION AND CONCEALMENT

17 377. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if set
18 forth in full in this cause of action.

19 378. At all relevant times, Defendant designed, tested, manufactured, packaged,
20 marketed, distributed, promoted, and sold CHANTIX.

21 379. At all relevant times, Defendant knew of the use for which CHANTIX was
22 intended and expressly and/or impliedly warranted that the drug was of merchantable quality
23 and safe and fit for such use.

24 380. Defendant's superior knowledge and expertise, its relationship of trust and
25 confidence with doctors and the public, its specific knowledge regarding the risks and
26 dangers of CHANTIX and its intentional dissemination of promotional and marketing
27 information about CHANTIX for the purpose of maximizing its sales, each gave rise to the
28 affirmative duty to meaningfully disclose and provide all material information about the risks
and harms associated with the drug.

381. Defendant recklessly and/or negligently represented to Plaintiffs, Plaintiffs'
physicians, and other persons and professionals on whom it was known by Defendant that

1 they would rely, that CHANTIX was safe to ingest and that the utility of this product
2 outweighed any risk in use for their intended purposes.

3 382. Defendant recklessly and/or negligently failed to disclose to Plaintiffs, and others,
4 important safety and efficacy information, thereby suppressing material facts about the drug,
5 while having a duty to disclose such information, which duty arose from its actions of
6 making, marketing, promoting, distributing and selling pharmaceutical products to Plaintiffs
7 and others.

8 383. Defendant led Plaintiffs to rely upon the safety of the product in its use.

9 384. The false representations of the Defendant were recklessly and/or negligently
10 made in that CHANTIX in fact caused injury, was unsafe, and the benefits of its use were far
11 outweighed by the risk associated with use thereof.

12 385. Defendant committed acts of reckless and/or negligent misrepresentation and
13 reckless and/or negligent concealment by suppressing material facts relating to the dangers
14 and injuries associated with, and caused by, the use of CHANTIX.

15 386. Defendant knew or should have known that its representations and/or omissions
16 were false. Defendant made such false, negligent and/or reckless representations with the
17 intent or purpose that Plaintiffs and Plaintiffs' physicians would rely upon such
18 representations, leading to the use of CHANTIX by Plaintiffs.

19 387. Defendant recklessly and/or negligently misrepresented and/or omitted
20 information with respect to CHANTIX in the following particulars:

21 a. Defendant represented through its labeling, advertising, marketing
22 materials, detail persons, seminar presentations, publications, notice letters, and regulatory
23 submissions that CHANTIX was safe and fraudulently withheld and concealed information
24 about the substantial risks of serious injury and/or death associated with using CHANTIX;

25 b. Defendant represented that CHANTIX was as safe and/or safer than
26 other alternative smoking cessation therapies and fraudulently concealed
27 information that demonstrated that CHANTIX was not safer than alternatives available on
28 the market; and

c. Defendant represented that CHANTIX was more efficacious than other
alternative smoking cessation therapies and fraudulently concealed information
regarding the true efficacy of the drug.

1 388. Defendant made affirmative misrepresentations and recklessly and/or negligently
2 omitted material adverse information regarding the safety and effectiveness of CHANTIX.

3 389. Defendant made these misrepresentations and/or omissions at a time when
4 Defendant knew or had reason to know that CHANTIX had defects and was unreasonably
5 dangerous and was not what Defendant had represented to the medical and healthcare
6 community, the FDA, and the consuming public, including Plaintiffs.

7 390. Defendant omitted, suppressed, and/or concealed material facts concerning the
8 dangers and risk of injuries associated with the use of CHANTIX, including serious injury
9 and death. Furthermore, Defendant's purpose was willfully blind to, ignored, downplayed,
10 avoided, and/or otherwise understated the serious nature of the risks associated with the use
11 of CHANTIX in order to increase sales.

12 391. Defendant's misrepresentations and/or omissions were undertaken by Defendant
13 with an intent that doctors and patients, including Plaintiffs, rely upon them.

14 392. Defendant's misrepresentations and/or omissions were undertaken with the
15 intent of defrauding and/or deceiving Plaintiffs, other consumers, and the medical
16 community to induce and encourage the sale of CHANTIX.

17 393. Defendant's misrepresentations and/or omissions evinced the Defendant's callous,
18 reckless, willful, and depraved indifference to the health, safety, and welfare of consumers,
19 including Plaintiffs.

20 394. Plaintiffs' physicians and Plaintiffs relied on and were induced by Defendant's
21 misrepresentations, omissions, and/or active concealment of the dangers of CHANTIX in
22 selecting treatment.

23 395. Plaintiffs and Plaintiffs' physicians did not know that the representations made
24 by Defendant were false and were justified in relying upon Defendant's representations.

25 396. Had Plaintiffs been aware of the increased risk of side effects associated with
26 CHANTIX and the relative efficacy of CHANTIX compared with other readily available
27 alternative smoking cessation therapies, Plaintiffs would not have taken CHANTIX.

28 397. As a direct and proximate consequence of Defendant's misrepresentations,
Plaintiffs sustained injuries and damages alleged herein including severe physical injuries
and/or death, severe emotional distress, economic losses and other damages to be proved
at trial.

398. By reason of the foregoing, Defendant is liable to Plaintiffs for damages as a result of its negligent misrepresentations, omissions, and concealment.

399. WHEREFORE, Plaintiffs demand judgment against Defendant and seek damages as detailed in the Global Prayer for Relief including: compensatory damages, exemplary damages, and punitive damages, together with interest, the costs of suit and attorneys' fees, and such other and further relief as this Court deems just and proper.

COUNT VIII GROSS NEGLIGENCE

400. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if set forth in full in this cause of action.

401. Defendant had a duty to exercise reasonable care in the warning about, design, testing, manufacture, marketing, labeling, sale, and/or distribution of CHANTIX, including a duty to ensure that it did not cause users to suffer from unreasonable and dangerous side effects.

402. Defendant failed to exercise reasonable care in the warning about, design, testing, manufacture, marketing, labeling, sale, and/or distribution of Defendant's product, CHANTIX, in that Defendant knew or should have known that taking CHANTIX caused unreasonable and life-threatening injuries, as alleged herein.

403. Defendant was grossly negligent under the circumstances and breached its duty of care in numerous ways, including the following:

- a. failing to test CHANTIX properly and thoroughly before releasing the drug to the market;
- b. failing to analyze properly and thoroughly the data resulting from the pre-marketing tests of CHANTIX;
- c. failing to report to the FDA, the medical community, and the general public those data resulting from pre- and post-marketing tests of CHANTIX which indicated risks associated with its use;
- d. failing to conduct adequate post-market monitoring and surveillance of CHANTIX;
- e. failing to conduct adequate analysis of adverse event reports;

1 q. failing to use due care in the sale and marketing of CHANTIX to prevent
2 the aforementioned risk of injuries to individuals when the drug was ingested;

3 r. failing to use due care in the selling of CHANTIX to prevent the
4 aforementioned risk of injuries to individuals when the drug was ingested;

5 s. failing to provide adequate and accurate training and information
6 to the sales representatives who sold the drug;

7 t. failing to provide adequate and accurate training and information
8 to healthcare providers for the appropriate use of CHANTIX;

9 u. failing to conduct or fund research into the development of medications of
10 this type which would pose the least risk of causing such serious injury and death, as alleged
11 herein, into the early detection of persons who might be most susceptible to such reactions,
12 and into the development of better remedies and treatment for those who experience these
13 tragic adverse reactions;

14 v. failing to educate healthcare providers, patients, and the public about the
15 safest use of the drug;

16 w. failing to give healthcare providers adequate information to weigh the
17 risks of serious injury and/or death for a given patient; and

18 x. being otherwise grossly negligent.

19 404. Although Defendant knew, or recklessly disregarded, the fact that Defendant's
20 product, CHANTIX, caused potentially lethal side effects, Defendant continued to market
21 Defendant's product, CHANTIX, to consumers, including Plaintiffs, without disclosing these
22 side effects, including the risks of serious injury and/or death.

23 405. Defendant knew and/or consciously or recklessly disregarded the fact that
24 consumers such as Plaintiffs would suffer injury as a result of Defendant's failure to exercise
25 reasonable care as described above.

26 406. Defendant knew of, or recklessly disregarded the defective nature of Defendant's
27 product, CHANTIX, as set forth herein, but continued to design, manufacture, market, and
28 sell Defendant's product, CHANTIX, so as to maximize sales and profits at the expense of
the health and safety of the public, including Plaintiffs, in conscious and/or reckless disregard
of the foreseeable harm caused by Defendant's product, CHANTIX.

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1 407. As a direct and proximate consequence of Defendant's
2 gross negligence, the Plaintiffs sustained injuries and damages alleged herein including
3 severe physical injuries and/or death, severe emotional distress, economic losses and other
damages to be proved at trial.

4 408. By reason of the foregoing, Defendant is liable to Plaintiffs for damages as
5 a result of its gross negligence.

6 409. **WHEREFORE**, Plaintiffs demand judgment against Defendant and seek
7 damages as detailed in the Global Prayer for Relief including: compensatory damages,
8 exemplary damages, and punitive damages, together with interest, the costs of suit and
9 attorneys' fees, and such other and further relief as this Court deems just and proper.

10 **COUNT IX:**
UNJUST ENRICHMENT

11 410. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if set
12 forth in full in this cause of action.

13 411. At all times relevant to this action, Defendant designed, advertised, marketed,
14 promoted, manufactured, distributed, supplied, and/or sold CHANTIX.

15 412. Plaintiffs purchased CHANTIX for the purpose of stopping smoking.

16 413. Defendant has accepted payment from Plaintiff for the purchase of CHANTIX.

17 414. Plaintiffs did not receive the safe and effective pharmaceutical product for which
18 Plaintiffs intended to purchase.

19 415. It is inequitable and unjust for Defendant to retain this money because the
20 Plaintiffs did not in fact receive the product Defendant represented CHANTIX to be.

21 416. By reason of the foregoing, Plaintiffs are entitled to equitable relief against
22 Defendant on account of its unjust enrichment.

23 417. **WHEREFORE**, Plaintiffs demand judgment against Defendant and seek
24 damages as detailed in the Global Prayer for Relief including: compensatory damages,
25 exemplary damages, and punitive damages, together with interest, the costs of suit and
attorneys' fees, and such other and further relief as this Court deems just and proper.

26 **COUNT X:**
PUNATIVE DAMAGES

27 418. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if set
28 forth in full in this cause of action.

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1 427. Defendant's conduct detailed herein was committed with knowing, conscious, and
 2 deliberate disregard for the rights and safety of consumers, including Plaintiffs, thereby
 3 entitling each Plaintiff to punitive damages in an amount appropriate to punish the
 4 Defendant and to deter them from similar conduct in the future.

428. By reason of the foregoing, Plaintiffs are entitled to punitive damages.

5 429. **WHEREFORE**, Plaintiffs demand judgment against Defendant and seek
 6 damages as detailed in the Global Prayer for Relief including: compensatory damages,
 7 exemplary damages, and punitive damages, together with interest, the costs of suit and
 8 attorneys' fees, and such other and further relief as this Court deems just and proper.

9 **COUNT XI:**

VIOLATION OF CONSUMERS LEGAL REMEDIES ACT

10 430. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if set
 11 forth in full in this cause of action.

12 431. Defendant had a statutory duty to refrain from unfair or deceptive acts or practices
 13 in the sale and promotion of CHANTIX to Plaintiffs.

14 432. Defendant engaged in unfair, unconscionable, deceptive, fraudulent and
 15 misleading acts or practices in violation of all states' consumer protection laws, identified
 16 below.

17 433. Through its false, untrue and misleading promotion of CHANTIX, Defendant
 18 induced Plaintiffs to purchase and/or pay for the purchase of CHANTIX.

19 434. Defendant misrepresented the alleged benefits and characteristics of CHANTIX;
 20 suppressed, omitted, concealed, and failed to disclose material information concerning
 21 known adverse effects of CHANTIX; misrepresented the quality and efficacy of CHANTIX
 22 as compared to much lower-cost alternatives; misrepresented and advertised that
 23 CHANTIX was of a particular standard, quality, or grade that it was not; misrepresented
 24 CHANTIX in such a manner that later, on disclosure of the true facts, there was a likelihood
 25 that Plaintiff would have switched from CHANTIX to another smoking cessation option
 26 and/or chosen not to purchase and/or reimburse for purchases of CHANTIX; advertised
 27 CHANTIX with the intent not to sell it as advertised; and otherwise engaged in fraudulent
 28 and deceptive conduct.

EXHIBIT A

1 435. Defendant's conduct created a likelihood of, and in fact caused, confusion and
 2 misunderstanding. Defendant's conduct misled, deceived and damaged Plaintiffs, and
 3 Defendant's fraudulent, misleading and deceptive conduct was perpetrated with an intent that
 4 Plaintiffs rely on said conduct by purchasing and/or paying for purchases of CHANTIX.
 5 Moreover, Defendant knowingly took advantage of Plaintiffs, who were reasonably unable to
 6 protect their interests due to ignorance of the harmful adverse effects of CHANTIX.

7 436. Defendant's conduct was willful, outrageous, immoral, unethical, oppressive,
 8 unscrupulous, unconscionable and substantially injurious to Plaintiffs and offends the public
 9 conscience.

10 437. Plaintiffs purchased CHANTIX primarily for personal, family, or household
 11 purposes.

12 438. As a result of Defendant's violative conduct, Plaintiffs purchased and/or paid for
 13 purchases of CHANTIX that were not made for resale.

14 439. Defendant engaged in unfair competition or deceptive acts or practices in
 15 violation of Cal. Civ. Code § 1770, et seq. (the "Consumer Legal Remedies Act"), and Cal.
 16 Bus. & Prof. Code § 17200 et seq. and § 17500 et seq.

17 440. WHEREFORE, Plaintiffs demand judgment against Defendant and seek
 18 damages as detailed in the Global Prayer for Relief including: compensatory damages,
 19 exemplary damages, and punitive damages, together with interest, the costs of suit and
 20 attorneys' fees, and such other and further relief as this Court deems just and proper.

21 **COUNT XII:**
 22 **LOSS OF CONSORTIUM**

23 441. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if set
 24 forth in full in this cause of action.

25 442. At all times relevant hereto the Plaintiffs' spouses ("Spouse Plaintiffs")
 26 and/or family members ("Family Member Plaintiffs") and/or domestic partners ("Domestic
 27 Partner Plaintiffs") have suffered injuries and losses as a result of the Plaintiffs' injuries.

28 443. For the reasons set forth herein, Spouse Plaintiffs and/or Family Member
 Plaintiffs and/or Domestic Partner Plaintiffs have necessarily paid and have become liable to

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1 pay for medical aid, treatment, and medications, and will necessarily incur further expenses
2 of a similar nature in the future as a proximate result of the Defendant's misconduct.

3 444. For the reasons set forth herein, Spouse Plaintiffs and/or Family Member
4 Plaintiffs and/or Domestic Partner Plaintiffs have suffered and will continue to suffer the loss
5 of their loved ones' support, companionship, services, society, love, and affection.

6 445. For all Spouse Plaintiffs, Plaintiffs allege their marital relationship has been
7 impaired and depreciated, and the marital association between husband and wife has been
8 altered.

9 446. Spouse Plaintiffs and/or Family Member Plaintiffs and/or Domestic Partner
10 Plaintiffs have suffered great emotional pain and mental anguish.

11 447. As a direct and proximate result of the Defendant's misconduct, Spouse Plaintiffs
12 and/or Family Member Plaintiffs and/or Domestic Partner Plaintiffs have sustained
13 injuries and damages alleged herein and other damages to be proved at trial.

14 448. By reason of the foregoing, Defendant is liable to Spouse Plaintiffs and/or Family
15 Member Plaintiffs and/or Domestic Partner Plaintiffs for damages as a result of its
16 misconduct.

17 449. **WHEREFORE**, Plaintiffs demand judgment against Defendant and seek
18 damages as detailed in the Global Prayer for Relief including: compensatory damages,
19 exemplary damages, and punitive damages, together with interest, the costs of suit and
20 attorneys' fees, and such other and further relief as this Court deems just and proper.

21 **COUNT XIII:**
22 **WRONGFUL DEATH**

23 450. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if set
24 forth in full in this cause of action.

25 451. Decedent Plaintiffs died as a direct and proximate result of Defendants'
26 misconduct as alleged herein resulting in Decedents' use of CHANTIX and are survived by
27 various family members, named and unnamed.

28 452. As a direct and proximate result of the acts and/or omission of Defendants,
Decedent's heirs and family have been deprived of her future aid, income, assistance,
services, companionship, society, affection and financial support.

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1 453. Decedent Plaintiffs surviving spouse brings these claims for Decedent Plaintiffs
2 wrongful death and for all damages and pecuniary losses sustained.

3 454. The representatives or administrators of Decedent Plaintiffs' estates bring these
4 claims on behalf of the Decedent Plaintiffs' lawful heirs for Decedent's wrongful death.

5 455. Decedent Plaintiffs' estate representatives further plead all wrongful death
6 damages allowed by statute and law in the states in which the causes of action have accrued.

7 DISCOVERY RULE AND FRAUDULENT CONCEALMENT

8 454. Defendant, through its affirmative misrepresentations and omissions, actively
9 concealed from Plaintiffs and Plaintiffs' healthcare providers the true and significant risks
10 associated with taking CHANTIX.

11 455. As a result of Defendant's actions, Plaintiffs and his/her prescribing physicians
12 were unaware, and could not have reasonably known or have learned through reasonable
13 diligence, that Plaintiffs had been exposed to the risks identified in this Master
14 Complaint, and that those risks were the result of Defendant's acts, omissions, and
15 misrepresentations.

16 456. Accordingly, no limitations period ought to accrue until such time as Plaintiffs
17 knew or reasonably should have known of some causal connection between Plaintiffs'
18 ingestion of CHANTIX and the harm Plaintiffs suffered as a result.

19 457. Additionally, the accrual and running of any applicable statute of limitations has
20 been tolled by reason of Defendant's fraudulent concealment.

21 458. Additionally, Defendant is equitably estopped from asserting any limitations
22 defense by virtue of its fraudulent concealment and other misconduct as described.

23 459. Additionally, the limitations period ought to be tolled under principles of
24 equitable tolling.

25 PRAYER FOR RELIEF

26 WHEREFORE, Plaintiffs demand judgment against Defendant as follows:

27 A. Past and future general damages, the exact amount of which has yet to be ascertained, in
28 an amount which will conform to proof at the time of trial;

B. Past and future economic and special damages according to proof at the time of trial;

C. Loss of earnings and impaired earning capacity according to proof at the time of trial;

- 1 D. Medical expenses, past and future, according to proof at the time of trial;
2 E. For past and future mental and emotional distress, according to proof;
3 F. Punitive damages in an amount sufficient to punish Defendant and set an example;
4 G. Disgorgement of profits;
5 H. Restitution;
6 I. Costs and fees of this action, including reasonable attorney's fees;
7 J. Prejudgment interest and all other interest recoverable; and
8 K. Such other additional and further relief as Plaintiffs may be entitled to in law or in equity.

9 **DEMAND FOR JURY TRIAL**

10 Plaintiffs, by their undersigned counsel, hereby demand a jury trial on all counts in this
11 Complaint.

12 Dated: the 1st day of July, 2011.

13 Respectfully submitted,
14 

15
16 Dated this July 2, 2011

17 
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19 J. Paul Sizemore
20 Sean O. McCrary
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COMPLAINT AND DEMAND FOR JURY TRIAL - 69

ORIGINAL

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): J. Paul Sizemore (254981) 2101 Rosecrans Ave. Ste 5290 El Segundo, CA 90245 TELEPHONE NO: (310) 322-8800 FAX NO: (310) 322-8811 ATTORNEY FOR (Name):		CM-010 FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES JUL 01 2011 John A. Clarke, Court Officer/Clerk By <u>ANNE LAFLEUR CLAYTON</u> Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill St. MAILING ADDRESS: 111 N. Hill St. CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District		
CASE NAME: Steven Hedlin et al. v. Pfizer Inc. and McKesson Corp.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER: BC464579 JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (45) Other PIP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input checked="" type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/DWD (23) Non-PIP/DWD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (18) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/DWD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 13
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (See instructions on CM-Q15.)
- Date: 7/1/2011

J Paul Sizemore
 (TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

BY FAX

- NOTICE**
- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
 - File this cover sheet in addition to any cover sheet required by local court rule.
 - If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
 - Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

Form Adopted for Mandatory Use
 Judicial Council of California
 CM-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740,
 Cal. Standards of Judicial Administration, std. 3.10
 www.courtinfo.ca.gov

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) lost damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance, a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)
Auto (22)—Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (40) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)	Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	Construction Defect (10)
	Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)	Claims Involving Mass Tort (40)
	Negligent Breach of Contract/Warranty	Securities Litigation (28)
Other PIPD/WO (Personal Injury/Property Damage/Wrongful Death) Tort	Other Breach of Contract/Warranty Collections (e.g., money owed, open book accounts) (09)	Environmental/Toxic Tort (30)
Asbestos (04)	Collection Case—Seller Plaintiff	Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)
Asbestos Property Damage	Other Promissory Note/Collections Case	Enforcement of Judgment
Asbestos Personal Injury/Wrongful Death	Insurance Coverage (not provisionally complex) (18)	Enforcement of Judgment (20)
Product Liability (not asbestos or toxic/environmental) (24)	Auto Subrogation	Abstract of Judgment (Out of County)
Medical Malpractice (45)	Other Coverage	Confession of Judgment (non-domestic relations)
Medical Malpractice—Physicians & Surgeons	Other Contract (37)	Sister State Judgment
Other PIPD/WO (23)	Contractual Fraud	Administrative Agency Award (not unpaid taxes)
Premises Liability (e.g., slip and fall)	Other Contract Dispute	Petition/Certification of Entry of Judgment on Unpaid Taxes
Intentional Bodily Injury/PI/D/WO (e.g., assault, vandalism)	Real Property	Other Enforcement of Judgment Case
Intentional Infliction of Emotional Distress	Eminent Domain/Inverse Condemnation (14)	Miscellaneous Civil Complaint
Negligent Infliction of Emotional Distress	Wrongful Eviction (33)	RICO (27)
Other PIPD/WO	Other Real Property (e.g., quiet title) (26)	Other Complaint (not specified above) (42)
Non-PIP/WO (Other) Tort	Writ of Possession of Real Property	Declaratory Relief Only
Business Tort/Unfair Business Practice (07)	Mortgage Foreclosure	Injunctive Relief Only (non-harassment)
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (06)	Quiet Title	Mechanics Lien
Defamation (e.g., slander, libel) (13)	Other Real Property (not eminent domain, landlord/tenant, or foreclosure)	Other Commercial Complaint Case (non-tort/non-complex)
Fraud (16)	Unlawful Detainer	Other Civil Complaint (non-tort/non-complex)
Intellectual Property (19)	Commercial (31)	Miscellaneous Civil Petition
Professional Negligence (25)	Residential (32)	Partnership and Corporate Governance (21)
Legal Malpractice	Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)	Other Petition (not specified above) (43)
Other Professional Malpractice (not medical or legal)	Judicial Review	Civil Harassment
Other Non-PIP/WO Tort (35)	Asset Forfeiture (05)	Workplace Violence
Employment	Petition Re: Arbitration Award (11)	Elder/Dependent Adult Abuse
Wrongful Termination (36)	Writ of Mandate (02)	Election Contest
Other Employment (15)	Writ—Administrative Mandamus	Petition for Name Change
	Writ—Mandamus on Limited Court Case Matter	Petition for Relief From Late Claim
	Writ—Other Limited Court Case Review	Other Civil Petition
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal—Labor Commissioner Appeals	

CM-010 Rev. July 1, 2007

CIVIL CASE COVER SHEET

Page 2 of 2

SHORT TITLE: Steven Hedlin et al v. Pfizer Inc., McKesson Corp., Does 1-50	CASE NUMBER BC464579
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**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

* This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☐ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL _____ ☐ HOURS/ ☒ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|--|--|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, central district. | 8. Location of property or permanently garaged vehicle. |
| 2. May be filed in central (other county, or no bodily injury/property damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 6. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside.. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner's Office |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A8070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input checked="" type="checkbox"/> A7280 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4. 1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4. 1., 4. 1., 3. 1., 4.

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SHORT TITLE: Steven Hedlin et al v. Pfizer Inc., McKesson Corp., Does 1-50		CASE NUMBER
A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07) <input type="checkbox"/> A8029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
	Civil Rights (08) <input type="checkbox"/> A8005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13) <input type="checkbox"/> A8010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16) <input type="checkbox"/> A8013 Fraud (no contract)	1., 2., 3.
	Professional Negligence (25) <input type="checkbox"/> A8017 Legal Malpractice <input type="checkbox"/> A8050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
	Other (35) <input type="checkbox"/> A8025 Other Non-Personal Injury/Property Damage tort	2., 3.
Employment	Wrongful Termination (36) <input type="checkbox"/> A8037 Wrongful Termination	1., 2., 3.
	Other Employment (15) <input type="checkbox"/> A8024 Other Employment Complaint Case <input type="checkbox"/> A8109 Labor Commissioner Appeals	1., 2., 3. 10.
Contract	Breach of Contract/ Warranty (06) (not insurance) <input type="checkbox"/> A8004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A8006 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A8019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A8026 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
	Collections (09) <input type="checkbox"/> A8002 Collections Case-Seller Plaintiff <input type="checkbox"/> A8012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
	Insurance Coverage (18) <input type="checkbox"/> A8015 Insurance Coverage (not complex)	1., 2., 5., 6.
	Other Contract (37) <input type="checkbox"/> A8009 Contractual Fraud <input type="checkbox"/> A8031 Tortious Interference <input type="checkbox"/> A8027 Other Contract Disputes(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 6.
	Eminent Domain/Inverse Condemnation (14) <input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Real Property	Wrongful Eviction (33) <input type="checkbox"/> A8023 Wrongful Eviction Case	2., 5.
	Other Real Property (28) <input type="checkbox"/> A8018 Mortgage Foreclosure <input type="checkbox"/> A8032 Quiet Title <input type="checkbox"/> A8060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 5. 2., 6. 2., 6.
	Unlawful Detainer	Unlawful Detainer-Commercial (31) <input type="checkbox"/> A8021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)
	Unlawful Detainer-Residential (32) <input type="checkbox"/> A8020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
	Unlawful Detainer-Post-Foreclosure (34) <input type="checkbox"/> A8020F Unlawful Detainer-Post-Foreclosure	2., 6.
	Unlawful Detainer-Drugs (38) <input type="checkbox"/> A8022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE: Steven Hadlin et al v. Pfizer Inc., McKesson Corp., Does 1-50	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above		
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6106 Asset Forfeiture Case	2., 6.		
	Petition re Arbitration (11)	<input type="checkbox"/> A6116 Petition to Compel/Confirm/Vacate Arbitration	2., 5.		
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.		
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.		
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.		
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.		
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.		
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.		
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.		
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.		
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 8. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.		
	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.		
	Miscellaneous Civil Complaints	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.	
		Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.	
		Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.


SHORT TITLE: Steven Hedlin et al v. Pfizer Inc., McKesson Corp., Does 1-50	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. <input checked="" type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input checked="" type="checkbox"/> 3. <input checked="" type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input checked="" type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: Pfizer Incorporated 235 East 42nd Street, New York, New York 10017
CITY: New York	STATE: NY	ZIP CODE: 10017 ✓

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Superior Court of courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: July 1, 2011


 (SIGNATURE OF ATTORNEY/FILING PARTY)

BY FAX

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

EXHIBIT B

1 CHRISTOPHER M. YOUNG (Bar No. 163319)
2 BROOKE KILLIAN KIM (Bar No. 239298)
3 KATHERINE J. LARSON (Bar No. 259556)
4 DLA PIPER LLP (US)
5 401 B Street, Suite 1700
6 San Diego, CA 92101-4297
7 Tel: 619.699.2700
8 Fax: 619.699.2701

9 Attorneys for Defendant
10 PFIZER INC.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

STEVEN HEDLIN, GINA MCKLUSKY,
JOHN CHRISTOPHER SMITH, MICHAEL
NEWTON, VICKY SNYDER, ALAN
TERRIO, JENNIE TERRIO, HEATHER
YOUNG, JERRY HANSON, CHARLES
DOMAN TH, MALISSA BRYANT,
KATHY BURNETT, DIXIE CARVALHO,
NANCY DUCOTE, ROBERT EGUINA,
JOHN WHITE, DEBRA FLETCHER,
CHARLA FERRELL, ABBY CHARLAND,
JOHN BARTLEY, TAMICA ROBINSON,
REBECCA LEE, SHELLIE JONES,
WILLIAM HINCKLEY, ANN GORDON,
THERESA LERCH, SHERRYLYNN
COUCH and HENRY COUCH JR.,
CHANTAE WILLIAMS, BARRY
BRANDKAMP, JOHN AUSTIN, JR.,
STEPHAN COOPER, LISA ROOKS,
MARILYN LOCKRIDGE, JAMES LOWE,
MICHELLE RABER, JUDITH LITTLE,
FERRAH SZYMANSKI, JEFFREY HILL,
DAVID JOHNSON, AMY HENDERSON,
DEBORAH WELTHER, SANDRA SMITH,
MICHELLE DELUCIA, CASANDRA
BOIRE, ERNESTINE DAVIS, SCOTT
CASSADY, RALPH CONDON,
ELIZABETH JAUSEL, SYBRENA
MALSOM, ARLENE KORDICK, KATHY
S. DAVIS, DAVID A. DUBREY, WALTER
EMMERSON, LEVI MCCAIN, BOBBY J.
HOLLOWELL, MICHAEL HOOD and
LAURA HOOD, KANDIEANN D.
KLINEDINST, WILBERT LANO JR.,
LINDA S. UBBELT and MICHAEL B.
LIEBELT, CAMRIN J. MCDONALD,
JIMMY W. MOFFETT, KENNETH

CASE NO. BC464579

**NOTICE OF FILING NOTICE OF
REMOVAL BY DEFENDANT PFIZER
INC.**

Dept: 17
Judge: Hon. Richard E. Rico

Complaint: July 1, 2011

1 NAPIER, AUBREY OXENDINE,
 2 CHARLOTTE PARKER, SANDY M.
 3 PRINCE, RENEE SINGLETON, KAY P.
 4 SLOCUM, VICTORIA SMALL WOOD,
 5 NANCY T. SOUTHERLIN, ROBYN K.
 6 SWEITZER, JESSICA TAISTO, KAREN J.
 7 WALKER, MICHAEL G. WEYRAUCH,
 8 MICHAEL WHEALEY, SHELIA WHITE,
 9 ANDRE YOUNG, DEREK CHARPENTIER,
 10 individually, and as surviving son of Jessica
 11 Charpentier, deceased, SHELBY GIESE is
 12 the personal representative of the estate of
 13 Laura Giese, deceased, LEROY DEGNER,
 14 individually, and as surviving spouse of
 15 Marie Degner, deceased, SALLY PORTER is
 16 the surviving mother of Dennis Jensen,
 17 deceased, PATRICIA HAINES-GENIESSE,
 18 individually, and as surviving spouse of
 19 Robert Geniesse, deceased, SHEEN A
 20 ALLEN, individually, and as the surviving
 21 spouse of Lew Allen, deceased, CASEY
 22 WHITTINGTON, individually, and as the
 23 surviving daughter of Robert Warring,
 24 deceased, SUSAN CAFRO, individually, and
 25 as the mother of Daniel Albrizio, deceased,
 26 VIRGINIA TICE, individually, and as the
 27 surviving spouse of Dustin Tice, deceased,
 28 RUTH JOHNSON, individually, and as
 surviving spouse of Carl Johnson, deceased,
 CATHERINE BENNETT, individually, and
 as surviving spouse of Joseph E. Bennett,
 deceased, ERIC HOWARD, individually, and
 as surviving spouse of Stormie Howard,
 deceased, EARNESTINE COLBURN,
 individually, and as surviving spouse of
 James Colburn, LORENE COLLIER,
 individually, and as surviving spouse of
 Freddie Collier, MARTHA WAGES,
 individually, and as surviving spouse of
 James Wages II, deceased, JEAN
 CARROLL, individually, and as surviving
 spouse of Dennis Shoemaker, deceased,

Plaintiffs,

v.

PFIZER INC., a corporation; MCKESSON
 CORP., a corporation; DOES 1-50,

Defendants.

1 TO THE CLERK OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE
2 COUNTY OF LOS ANGELES, AND TO ALL PARTIES AND THEIR ATTORNEYS OF
3 RECORD:

4 PLEASE TAKE NOTICE that a Notice of Removal of this action was filed in the United
5 States District Court for the Central District of California on July 14, 2011.

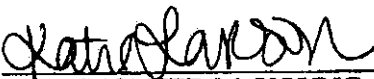
6 PLEASE TAKE FURTHER NOTICE that pursuant to 28 U.S.C. section 1446(d), the
7 filing in Federal Court of the Notice of Removal, together with the filing in this Court of a copy
8 of the Notice of Removal, effects the removal of this action and the State Court proceeding may
9 proceed no further unless and until this action is remanded by the Federal District Court.

10 28 U.S.C. § 1446(d).

11 A copy of the Notice of Removal is attached to this Notice as Exhibit 1.

12 Dated: July 14, 2011

13 DLA PIPER LLP (US)

14
15 By 
16 CHRISTOPHER M. YOUNG
17 Attorneys for Defendant
18 PFIZER INC.
19
20
21
22
23
24
25
26
27
28

1 CHRISTOPHER M. YOUNG (Bar No. 163319)
christopher.young@dlapiper.com
2 BROOKE KILLIAN KIM (Bar No. 239298)
brooke.kim@dlapiper.com
3 KATHERINE J. LARSON (Bar No. 259556)
katherine.larson@dlapiper.com
4 DLA PIPER LLP (US)
401 B Street, Suite 1700
5 San Diego, CA 92101-4297
Tel: 619.699.2700
6 Fax: 619.699.2701

7 Attorneys for Defendant
Pfizer Inc.

9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF LOS ANGELES

11 STEVEN HEDLIN, GINA MCKLUSKY,
12 JOHN CHRISTOPHER SMITH, MICHAEL
NEWTON, VICKY SNYDER, ALAN
13 TERRIO, JENNIE TERRIO, HEATHER
YOUNG, JERRY HANSON, CHARLES
14 DOMAN TH, MALISSA BRYANT, KATHY
BURNETT, DIXIE CARVALHO, NANCY
15 DUCOTE, ROBERT EGUINA, JOHN
WHITE, DEBRA FLETCHER, CHARLA
16 FERRELL, ABBY CHARLAND, JOHN
BARTLEY, TAMICA ROBINSON,
17 REBECCA LEE, SHELLIE JONES,
WILLIAM HINCKLEY, ANN GORDON,
18 THERESA LERCH, SHERRYLYNN
COUCH and HENRY COUCH JR.,
19 CHANTAE WILLIAMS, BARRY
BRANDKAMP, JOHN AUSTIN, JR.,
20 STEPHAN COOPER, LISA ROOKS,
MARILYN LOCKRIDGE, JAMES LOWE,
21 MICHELLE RABER, JUDITH LITTLE,
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DEBORAH WELTHER, SANDRA SMITH,
23 MICHELLE DELUCIA, CASANDRA
BOIRE, ERNESTINE DAVIS, SCOTT
24 CASSADY, RALPH CONDON,
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25 MALSOM, ARLENE KORDICK, KATHY S.
DAVIS, DAVID A. DUBREY, WALTER
26 EMMERSON, LEVI MCCAIN, BOBBY J.
HOLLOWELL, MICHAEL HOOD and
27 LAURA HOOD, KANDIEANN D.
KLINEDINST, WILBERT LANO JR.,
28 LINDA S. UBBELT and MICHAEL B.

CASE NO. BC464579

PROOF OF SERVICE

Dept: 17
Judge: Hon. Richard E. Rico

Complaint: July 1, 2011

-1-

DLA PIPER LLP (US)
SAN DIEGO

EAST45159894.1

PROOF OF SERVICE

1 LIEBELT, CAMRIN J. MCDONALD,
 2 JIMMY W. MOFFETT, KENNETH
 3 NAPIER, AUBREY OXENDINE,
 4 CHARLOTTE PARKER, SANDY M.
 5 PRINCE, RENEE SINGLETON, KAY P.
 6 SLOCUM, VICTORIA SMALL WOOD,
 7 NANCY T. SOUTHERLIN, ROBYN K.
 8 SWEITZER, JESSICA TAISTO, KAREN J.
 9 WALKER, MICHAEL G. WEYRAUCH,
 10 MICHAEL WHEALEY, SHELIA WHITE,
 11 ANDRE YOUNG, DEREK CHARPENTIER,
 12 individually, and as surviving son of Jessica
 13 Charpentier, deceased, SHELBY GIESE is the
 14 personal representative of the estate of Laura
 15 Giese, deceased, LEROY DEGNER,
 16 individually, and as surviving spouse of Marie
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 27 as the mother of Daniel Albrizio, deceased,
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 deceased, EARNESTINE COLBURN,
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 and as surviving spouse of Freddie Collier,
 MARTHA WAGES, individually, and as
 surviving spouse of James Wages II, deceased,
 JEAN CARROLL, individually, and as
 surviving spouse of Dennis Shoemaker,
 deceased,

Plaintiffs,

v.

PFIZER INC., a corporation; MCKESSON
 CORP., a corporation; DOES 1-50,

Defendants.

PROOF OF SERVICE BY MAIL

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within cause. My business address is DLA Piper LLP (US), 401 B Street, Suite 1700, San Diego, California 92101-4297.

I served the below listed document(s) described as:

NOTICE OF FILING NOTICE OF REMOVAL BY DEFENDANT PFIZER INC.

on July 14, 2011, on the following parties to this cause by mailing a copy of the above document(s) as follows:

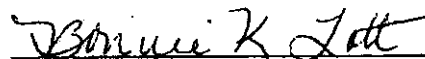
Counsel for Plaintiffs

J. Paul Sizemore, Esq.
Sean O. McCrary, Esq.
2101 Rosecrans Avenue, Suite 5290
El Segundo, CA 90245
Telephone: 310.322.8800
Facsimile: 310.322.8811

I am familiar with the office practice of DLA Piper LLP (US) for collecting and processing documents for mailing with the United States Postal Service, which practice is that when documents are deposited with the DLA Piper LLP (US) personnel responsible for depositing documents with the United States Postal Service, such documents are delivered to the United States Postal Service that same day in the ordinary course of business with postage thereon fully prepaid. I placed a sealed envelope containing the document(s) in DLA Piper's San Diego interoffice mail, addressed to the above parties.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 14, 2011, at San Diego, California.


Bonnie K. Lott

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> STEVEN HEDLIN, et al. (Please see attachment for additional Plaintiffs)	DEFENDANTS PFIZER INC., a corporation; MCKESSON CORP., a corporation; DOES 1-50
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) J. Paul Sizemore Sean O. McCrary 2101 Rosecrans Ave., Suite 5290 El Segundo, CA 90245 310.322.8800	Attorneys (If Known) Christopher M. Young Brooke Killian Kim DLA Piper LLP (US) 401 B Street, Suite 1700 San Diego, CA 92101-4297 Tel: 619.699.2700

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%;"> <tr> <th style="text-align: left;">Plt</th> <th style="text-align: left;">Def</th> <th style="text-align: left;">Plt</th> <th style="text-align: left;">Def</th> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td><input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input checked="" type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>	Plt	Def	Plt	Def	Citizen of This State	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4	Citizen of Another State	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6
Plt	Def	Plt	Def														
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Citizen of Another State	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6														

IV. ORIGIN (Place an X in one box only.) <input type="checkbox"/> 1 Original Proceeding <input checked="" type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
--

V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.) CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> MONEY DEMANDED IN COMPLAINT: 5
--

VI. CAUSE OF ACTION (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) Negligence, Strict Products Liability, Misrepresentation/Concealment, CLRA, Warranty
--

VII. NATURE OF SUIT (Place an X in one box only.) <table style="width:100%;"> <tr> <th style="text-align: left;">OTHER STATUTES</th> <th style="text-align: left;">CONTRACT</th> <th style="text-align: left;">TORTS</th> <th style="text-align: left;">FEDERAL</th> <th style="text-align: left;">PERSONAL INJURY</th> <th style="text-align: left;">LABOR</th> </tr> <tr> <td style="vertical-align: top;"> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat. TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes </td> <td style="vertical-align: top;"> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property </td> <td style="vertical-align: top;"> PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input checked="" type="checkbox"/> 365 Personal Injury-Med Malpractice <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions </td> <td style="vertical-align: top;"> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 22 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CRIMINALS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights </td> <td style="vertical-align: top;"> PERSONAL INJURY <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition POSSIBLE INJURY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other </td> <td style="vertical-align: top;"> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 61 HIA(1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW 405(g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 </td> </tr> </table>	OTHER STATUTES	CONTRACT	TORTS	FEDERAL	PERSONAL INJURY	LABOR	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat. TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input checked="" type="checkbox"/> 365 Personal Injury-Med Malpractice <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 22 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CRIMINALS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition POSSIBLE INJURY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 61 HIA(1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW 405(g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
OTHER STATUTES	CONTRACT	TORTS	FEDERAL	PERSONAL INJURY	LABOR							
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat. TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input checked="" type="checkbox"/> 365 Personal Injury-Med Malpractice <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 22 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CRIMINALS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition POSSIBLE INJURY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 61 HIA(1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW 405(g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609							

LACV11-5801

FOR OFFICE USE ONLY: Case Number:

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☐ No ☒ Yes

If yes, list case number(s): 2:09-CV-2039-IPJ MDL Case No. 2092 (N.D. Alabama)

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☒ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	Nevada County 35 States Other Than California Kern County Yolo County

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	San Francisco County (Defendant fraudulently joined); Delaware and New York

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	Nevada County 35 States Other Than California Kern County Yolo County

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): Kathleen R. Rasmussen Date July 14, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3 -1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

Attachment to
United States District Court, Central District of California
Civil Cover Sheet

I(a) Plaintiffs continued from Page 1:

GINA MCKLUSKY, JOHN CHRISTOPHER SMITH, MICHAEL NEWTON, VICKY SNYDER, ALAN TERRIO, JENNIE TERRIO, HEATHER YOUNG, JERRY HANSON, CHARLES DOMAN TH, MALISSA BRYANT, KATHY BURNETT, DIXIE CARVALHO, NANCY DUCOTE, ROBERT EGUINA, JOHN WHITE, DEBRA FLETCHER, CHARLA FERRELL, ABBY CHARLAND, JOHN BARTLEY, TAMICA ROBINSON, REBECCA LEE, SHELLIE JONES, WILLIAM HINCKLEY, ANN GORDON, THERESA LERCH, SHERRYLYNN COUCH and HENRY COUCH JR., CHANTAE WILLIAMS, BARRY BRANDKAMP, JOHN AUSTIN, JR., STEPHAN COOPER, LISA ROOKS, MARILYN LOCKRIDGE, JAMES LOWE, MICHELLE RABER, JUDITH LITTLE, FERRAH SZYMANSKI, JEFFREY HILL, DAVID JOHNSON, AMY HENDERSON, DEBORAH WELTHER, SANDRA SMITH, MICHELLE DELUCIA, CASANDRA BOIRE, ERNESTINE DAVIS, SCOTT CASSADY, RALPH CONDON, ELIZABETH JAUSEL, SYBRENA MALSOM, ARLENE KORDICK, KATHY S. DAVIS, DAVID A. DUBREY, WALTER EMMERSON, LEVI MCCAIN, BOBBY J. HOLLOWELL, MICHAEL HOOD and LAURA HOOD, KANDIEANN D. KLINEDINST, WILBERT LANO JR., LINDA S. UBBELT and MICHAEL B. LIEBELT, CAMRIN J. MCDONALD, JIMMY W. MOFFETT, KENNETH NAPIER, AUBREY OXENDINE, CHARLOTTE PARKER, SANDY M. PRINCE, RENEE SINGLETON, KAY P. SLOCUM, VICTORIA SMALL WOOD, NANCY T. SOUTHERLIN, ROBYN K. SWEITZER, JESSICA TAISTO, KAREN J. WALKER, MICHAEL G. WEYRAUCH, MICHAEL WHEALEY, SHELIA WHITE, ANDRE YOUNG, DEREK CHARPENTIER, individually, and as surviving son of Jessica Charpentier, deceased, SHELBY GIESE is the personal representative of the estate of Laura Giese, deceased, LEROY DEGNER, individually, and as surviving spouse of Marie Degner, deceased, SALLY PORTER is the surviving mother of Dennis Jensen, deceased, PATRICIA HAINES-GENIESSE, individually, and as surviving spouse of Robert Geniesse, deceased, SHEEN A ALLEN, individually, and as the surviving spouse of Lew Allen, deceased, CASEY WHITTINGTON, individually, and as the surviving daughter of Robert Warring, deceased, SUSAN CAFRO, individually, and as the mother of Daniel Albrizio, deceased, VIRGINIA TICE, individually, and as the surviving spouse of Dustin Tice, deceased, RUTH JOHNSON, individually, and as surviving spouse of Carl Johnson, deceased, CATHERINE BENNETT, individually, and as surviving spouse of Joseph E. Bennett, deceased, ERIC HOWARD, individually, and as surviving spouse of Stormie Howard, deceased, EARNESTINE COLBURN, individually, and as surviving spouse of James Colburn, LORENE COLLIER, individually, and as surviving spouse of Freddie Collier, MARTHA WAGES, individually, and as surviving spouse of James Wages II, deceased, JEAN CARROLL, individually, and as surviving spouse of Dennis Shoemaker, deceased